

METROPOLITAN AREA PLANNING COMMISSION

MINUTES

December 8, 2005

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held on December 8, 2005, at 1:30 P.M., in the Planning Department Conference Room, 10th floor, City Hall, 455 North Main, Wichita Kansas. The following members were present: Harold Warner Jr., Chair; Darrell Downing Vice-Chair; John W. McKay Jr.; Bill Johnson; Bob Aldrich; M.S. Mitchell; Don Anderson (Out @ 4:30); Denise Sherman; Bud Hentzen (Out @ 2:00); Ronald Marnell; Hoyt Hillman and Morris K. Dunlap. Staff members present were: John L. Schlegel, Secretary; Dale Miller, Current Plans Manager; Donna Goltry, Principal Planner; Neil Strahl, Senior Planner; Bill Longnecker, Senior Planner; Jess McNeely, Senior Planner; David Barber, Advanced Plans Manager and Rose Simmering, Recording Secretary.

1. Approval of November 17, 2005 meeting minutes.

MOTION: To approve the November 17, 2005 meeting minutes.

HILLMAN moved, **JOHNSON** seconded the motion, and it carried (11-0-1) MCKAY abstains.

SCHLEGEL There are two items, CUP2005-64 and DP292 ZON2005-51 The Waterwalk Community Unit Plan that will not be heard today. That item has been withdrawn and it was advertised to be heard today but will not be heard, and it has been withdrawn.

Also, CUP2005-63 ZON2005-74 The Cedar Creek Marketplace CUP, Item 15 on our Agenda today, that item has been deferred to December 22, 2005, and if you are here for that Item today it has been deferred.

❖ SUBDIVISION ITEMS

2. Consideration of Subdivision Committee.

2-1. SUB 2005-121: Final Plat -- REED'S COVE 4th ADDITION, located on the east side of 127th Street East and south of 21st Street North.

NOTE: This is a replat of Lots 39 and 40, Block 1, Reed's Cove Addition.

STAFF COMMENTS:

- A. The applicant shall guarantee the extension of sanitary sewer and City water to serve the lots being platted. The applicant shall contact **Debt Management** regarding the need for submission of a respread agreement for existing improvements.
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- C. **City Engineering has requested a lot-grading plan. Revisions to the drainage plan are requested.**
- D. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.
- E. Since this is a replat of a previous Addition involved with the ownership and maintenance of reserves for that Addition, but not being replatted by this Addition, the above covenants and/or other legal documents shall be provided which provides for this Addition to continue to share in the ownership and maintenance responsibilities of any such previously platted reserves.
- F. For those reserves being platted for drainage purposes, the required covenant, which provides for ownership and maintenance of the reserves shall grant, to the City, the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- G. The Applicant shall guarantee the paving of the proposed streets.
- H. The applicant shall submit a covenant, which provides for four (4) off-street parking spaces per dwelling unit on each lot, which abuts a 58-foot street. The covenant shall inventory the affected lots by lot and block number and shall state that the covenant runs with the land and is binding on future owners and assigns.
- I. At the terminus of Shadybrook Ct, the Applicant has platted a 20-ft building setback, which represents an adjustment of the Zoning Code standard of 25 feet for the SF-5, Single-Family Residential District. The Subdivision Regulations permit the

setback provisions to be modified by the plat upon the approval of the Planning Commission.

- J. **GIS** needs to comment on the plat's street names. **The street names are approved.**
- K. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- L. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- M. The applicant shall install or guarantee the installation of all utilities and facilities, which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- N. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- O. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- P. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- Q. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- R. Perimeter closure computations shall be submitted with the final plat tracing.
- S. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- T. The representatives from the **utility companies** should be prepared to comment on the need for any additional utility easements to be platted on this property. **Westar Energy has requested additional easements.**
- U. A compact disc (CD), which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. If a disc is not provided, please send via e-mail to Cheryl Holloway (E-Mail address: cholloway@wichita.gov). Please include the name of the plat on the disc.

MOTION: To approve subject to Staff and Subdivision Recommendations.

DUNLAP moved, **JOHNSON** seconded the motion, and it carried (12-0).

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- 2-2. **SUB 2005-87: Final Plat -- CENTRAL DEVELOPMENT ADDITION**, located on the north side of Central and west of 127th Street East.
- A. The applicant shall guarantee the extension of sanitary sewer and City water to serve the lots being platted.
 - B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
 - C. **City Engineering** needs to comment on the status of the applicant's drainage plan. **Revisions to the drainage plan are needed.**
 - D. Complete access control has been platted along Central frontage. **The location of the street openings has been approved.**
 - E. **The Subdivision Committee has approved the preliminary plat with Reserve C for an emergency access easement for connection to the north. The applicant shall guarantee the paving of the emergency access easement to fire department standards.**
 - F. The Applicant shall guarantee the paving of the proposed streets. The guarantee shall also provide for sidewalks on at least one side of all through, non cul-de-sac streets.
 - G. In accordance with the KS Wetland Mapping Conventions under the Memorandum of Understanding between the USDA-NRCS; USEPA; USACE; and USF&WS, this site has been identified as one with potential wetland hydrology. The US Army Corps of Engineers (USACE) should be contacted (316-322-8247) to have a wetland determination completed.

- H. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.
- I. This covenant shall also provide for the Homeowners' Association to maintain the "parking strip" located between this site's south property line and driving surface for Central.
- J. For those reserves being platted for drainage purposes, the required covenant which provides for ownership and maintenance of the reserves shall grant, to the appropriate governing body, the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- K. The applicant shall submit a covenant, which provides for four (4) off-street parking spaces per dwelling unit on each lot, which abuts a 58-foot street. The covenant shall inventory the affected lots by lot and block number and shall state that the covenant runs with the land and is binding on future owners and assigns.
- L. Approval of this plat will require a waiver of the lot depth to width ratio of the Subdivision Regulations for Lots 6-8, Block 1. The Subdivision Regulations state that the maximum depth of all residential lots shall not exceed 2.5 times the width. **A modification has been approved.**
- M. **GIS** needs to comment on the plat's street names. **Plymouth shall be replaced with Troon or Stratford Row. Plymouth Ct shall be replaced with Stratford Ct.**
- N. Street right-of-way dimensions need to be shown.
- O. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- P. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- Q. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- R. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- S. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- T. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- U. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- V. Perimeter closure computations shall be submitted with the final plat tracing.
- W. Recording of the plat within 30 days after approval by the City Council and/or County Commission.
- X. The representatives from the **utility companies** should be prepared to comment on the need for any additional utility easements to be platted on this property. **Westar Energy has requested additional easements.**
- Y. A compact disc (CD), which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. If a disc is not provided, please send via e-mail to Cheryl Holloway (E-Mail address: cholloway@wichita.gov). Please include the name of the plat on the disc.

STRAHL The major issue last week at Subdivision Committee was a street connection from the proposed site to the Balthrop 4th Addition to the north. When Balthrop 4th Addition was approved, a plat condition was for a future connection through that site to Central to provide a secondary access in addition to the major access, which is over here to the west. The Subdivision Regulations do require the connection of existing streets to the surrounding area, and we do encourage these linkages between subdivisions. As explained in Item E, of the staff report, the Subdivision Committee did require a connection between these two subdivisions, however the connection was an emergency access easement with a gate to be within Reserve C. Traffic Engineering requested that the connection be an outright dedication of right-of-way instead of an emergency access easement, and Traffic Engineering

wishes that to be a public street. Traffic Engineering is here today to appeal the decision of the Subdivision Committee, and Paul Gunzelman is here to address the Commission in that regard.

WARNER Does that mean that if it is a public street it can't be gated?

STRAHL That is correct.

HILLMAN Did you receive under Item C, the drainage plan?

STRAHL I have not been informed that has been resolved as of yet, but normally we would take care of that before we proceed to City Council.

MCKAY What is the size of the lots on either side of this area?

STRAHL I think they appear to be in the 8,000 square feet range.

MCKAY I mean the width of the lots.

STRAHL It appears to be about 85 feet.

ALDRICH Could you repeat what you just said about Item E of the staff report, where Traffic Engineering and staff want that open as a street, is that correct?

STRAHL That is correct.

HENTZEN Was the Traffic Engineer available at the Subdivision Committee meeting?

STRAHL Yes, they were available and voiced their opposition, and they are back here today to appeal.

PAUL GUNZELMAN Traffic Engineer, As Neil said that when Balthrop 4th was platted in 1995 they did provide for a connection to the south, and that is what I would like, and I would like the plat approved with that public connection and not be gated. To my knowledge we haven't gated any public streets, and since these are both public I would like to keep that open. We did have one gate in southeast Wichita with two public streets, and that was removed in 2001. I would like to do as we have done in the past, connecting the two subdivision together with a public street.

WARNER Is the opposition from the developer or from the neighbors to the north?

GUNZELMAN From the developer, I believe.

DUNLAP Where we are talking about this going up to the north joins with a street that is already up there right?

GUNZELMAN Yes, it does.

DUNLAP That street that is already up there is a standard width?

GUNZELMAN It is a little narrower than a standard width.

DUNLAP Will we be requiring some reduction in the property owned by the people up there in order to make it standard width?

GUNZELMAN I would be okay with connecting this up to match the existing standard width.

DUNLAP If it is narrower than standard width to the north, this is going to be wider?

GUNZELMAN I would match this pavement to the north.

MARNELL As far as what street would be constructed would it still meet the Wichita Street Standards, the street itself not the right-of-way?

GUNZELMAN It would be, I believe, that is it would be narrow pavement and we would not allow parking.

CHRIS BOHM, RUGGLES AND BOHM, 924 N. Main, Wichita, KS 67203 We submitted this plat as a sketch plat probably 5-6 months ago, and what we had done before we submitted that was to talk to Fire Department, Traffic and everyone, first of all, to eliminate that connection completely. Through the course of those discussions it was very clear that we needed the connection, and we are fully in agreement to connect the roads. We submitted the sketch plat with the express purpose of dealing with this issue of dealing with the Reserve and the gate at that time, and the developer has moved forward through preliminary plat and final plat in good faith that this would be the case.

Whitetail Street to the north, in Balthrop, is platted as a 32-foot right-of-way. It was a backdoor right-of-way, and this subject property had been proposed as a commercial development back at the time of the platting of Balthrop Addition. So accommodations could have been made for some traffic control as we approach Central with that development, and over the time that ground sold, and we have before you the plat that we are asking for today. If you look at the Balthrop 4th and Preston Trails they have three points of access, two out to Greenwich Road, and one to the south down to Central. Each of those three entrances are single fronted, very long entrances with a Reserve on the opposite side. The entrance south on Central is about a 1,000 feet

long, and restricted to three entrances, and has a terrific way of stacking traffic that would approach Central. We feel we have met every item of this plat, and we ask you approve the plat as a Reserve crossing between the two Whitetail Streets.

TIM BUCHANAN, RRT, LLC, 7303 E. 21st Street North, Suite 110, Wichita, KS 67206 I would like to correct one piece of information that was stated. The gate was proposed as a result of a request of the people that live to the north. There were homeowners at our previous meetings, and this street design was created with the assumption with the approval of the gate was going to continue. The homeowners would have been here today had they thought the decision from before was going to be reversed. The gate is there partially as a result of the request from the homeowners to the north that don't want all this traffic coming past their houses, particularly the ones that live right on the connecting street.

MCKAY Could we hear from somebody that is on the Subdivision Committee that heard this in detail?

DOWNING I can give you a little information. We discussed this last week and the request was made by the Traffic Engineer to open that to a full street, and we also had discussion with the Fire Department and with the Police Department, and they were comfortable with the locked gate, and so we chose to go with the gate as was requested.

MARNELL I saw the vote on this was approved (4-0), and the number of members had shown to be more. Did someone abstain from voting?

DOWNING No one abstained. I don't recall if it was early or not but I think 4 or 5 was all that were in attendance.

MITCHELL I agree with the applicant. I was here on the sketch plat hearing, and the neighbors did appear and did not want that connection made partially on the basis that they had been there all these years without it, and there didn't appear to be any traffic problems, and for the two owners of the adjacent lots they felt that they had been somewhat promised this condition that they had of having that narrow connection for their side load garages without it being a street. One other thing that we learned last week was that the pavement that comes from the north doesn't extend clear to the property line. There is also a box culvert going under this area so it is a very unusual situation. I for one supported the recommendation, and would do so again today.

MOTION: To approve subject to the Subdivision Committee Recommendation.

MITCHELL moved, **MCKAY** seconded the motion, and it carried (12-0).

2-3. **SUB 2005-109: Final Portion of Overall Preliminary Plat -- EMERALD BAY ESTATES ADDITION**, located on the west side of West Street and north of 21st Street North.

NOTE: This site is located in the County adjoining Wichita's city limits and annexation is required. The site is currently zoned SF-20, Single-Family residential and will be converted to SF-5, Single-Family Residential upon annexation.

An overall preliminary plat was approved for the site in October 2005. This first phase – which covers the northern portion of the overall preliminary plat – is consistent with the preliminary plat in regards to number and size of lots, and street layout.

STAFF COMMENTS:

- A. Prior to this plat being scheduled for City Council review, annexation of the property will need to be completed. Upon annexation, the property will be zoned SF-5, Single-Family Residential and allow for the lot sizes being platted.
- B. The applicant shall guarantee the extension of sanitary sewer (main and laterals) and City water (main and laterals) to serve the lots being platted.
- C. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- D. **City Engineering** needs to comment on the status of the applicant's drainage plan. **The drainage plan is approved.**
- E. **Traffic Engineering** has requested a petition for future decel lane.
- F. **Traffic Engineering** needs to comment on the access controls. The plat proposes one street opening to West Street. Complete access control is platted along the perimeter street frontage. **The plat should be redesigned to develop storage for traffic at West Street access off Emerald Bay.**
The street opening along West Street has been relocated southward in accordance with the request of Traffic Engineering.
- G. **City Fire Department has required a second point of access from West Street. The applicant has agreed on an emergency access in accordance with Fire Department standards. An emergency access easement shall be established by separate instrument. The text of the instrument shall indicate the type of driving surface to be installed and address installation and maintenance. Standard gating and signing are required per City/County Fire Department standards.**
- H. The Applicant shall guarantee the paving of the proposed streets. The guarantee shall also provide for sidewalks on at least one side of all through, non cul-de-sac streets.

- I. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.
- J. For those reserves being platted for drainage purposes, the required covenant which provides for ownership and maintenance of the reserves shall grant, to the appropriate governing body, the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- K. Since Reserve D includes a swimming pool, a site plan shall be submitted with the final plat, for review and approval by the Planning Director. The site plan shall include the information indicated in the Subdivision Regulations. Otherwise a conditional use and public hearing will be needed in the future. The design for the pool must be submitted to **Environmental Services** for review prior to issuing a building permit for the pool.
- L. This property is within a zone identified by the City Engineers' office as likely to have groundwater at some or all times within 10 feet of the ground surface elevation. Building with specially engineered foundations or with the lowest floor opening above groundwater is recommended, and owners seeking building permits on this property will be similarly advised. More detailed information on recorded groundwater elevations in the vicinity of this property is available in the City Engineers' office.
- M. **GIS** needs to comment on the plat's street names. **Paradise Cir shall be denoted as Paradise Ct. Bayside Cir shall be denoted as Bayside Ct.**
- N. The applicant shall submit a copy of the instrument, which establishes the pipeline easements on the property, which verifies that the easements shown are sufficient and that utilities may be located adjacent to and within the easements. Any relocation, lowering or encasement of the pipeline, required by this development, will not be at the expense of the City of Wichita.
- O. The applicant's agent shall determine any setback requirements for the pipelines by researching the text of the pipeline agreements. If a setback from the pipeline easements is provided for in the pipeline easement agreements, it shall be indicated on the face of the plat.
- P. The recording information for all pipeline easements shall be indicated on the face of the plat.
- Q. The applicant should acquire permission from the gas company for the public street crossing.
- R. The applicant is advised that the plat for the second phase of development should include the right-of-way for the diagonal road adjacent to the flood control project. The existing diagonal street is located on flood control right-of-way and may need to be located off the right-of-way.
- S. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- T. For any lots with existing tree rows that may be impacted by the installation of utilities, it is recommended that 30-ft utility easements be platted in order to allow for the installation of the utilities without damage to such tree rows.
- U. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- V. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- W. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- X. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- Y. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- Z. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.

- AA. Perimeter closure computations shall be submitted with the final plat tracing.
- BB. Recording of the plat within 30 days after approval by the City Council and/or County Commission.
- CC. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- DD. A compact disc (CD), which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. If a disc is not provided, please send via e-mail to Cheryl Holloway (E-Mail address: cholloway@wichita.gov). Please include the name of the plat on the disc.

MOTION: To approve subject to the Staff and Subdivision Recommendation.

DUNLAP moved, **MCKAY** seconded the motion, and it carried (12-0).

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- 2-4. SUB 2005-118: Final Plat -- BLACKSTONE ADDITION,** located east of 151st Street West and on the north side of 13th Street North.

NOTE: This site is located in the County adjoining Wichita's city limits and annexation is required. The site is currently zoned SF-20, Single-Family Residential and will be converted to SF-5, Single-Family Residential upon annexation.

STAFF COMMENTS:

- A. Prior to this plat being scheduled for City Council review, annexation of the property will need to be completed. Upon annexation, the property will be zoned SF-5, Single-Family Residential and allow for the lot sizes being platted.
- B. The applicant shall guarantee the extension of sanitary sewer (main and laterals) and City water to serve the lots being platted.
- C. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- D. **City Engineering** needs to comment on the status of the applicant's drainage plan. **City Engineering has requested an offsite drainage easement. The drainage plan has been approved.**
- E. **County Public Works** requests the annexation of 13th St. North.
- F. **County Engineering** requests the applicant verify that the floodplain to the west does not encroach into the plat.
- G. **Traffic/County Engineering has requested a petition for paving of 13th St. North to the west line of the plat. Traffic Engineering has requested left turn lanes.**
- H. The plat proposes one street opening to 13th St. North. Complete access control is platted along the perimeter street frontage. **Access controls are approved.**
- I. The Applicant shall guarantee the paving of the proposed streets. The guarantee shall also provide for sidewalks on at least one side of all through, non cul-de-sac streets.
- J. In accordance with the KS Wetland Mapping Conventions under the Memorandum of Understanding between the USDA-NRCS; USEPA; USACE; and USF&WS, this site has been identified as one with potential wetland hydrology. The US Army Corps of Engineers (USACE) should be contacted (316-322-8247) to have a wetland determination completed.
- K. **County Engineering** has requested that the plat's text should include language that protects the public from cost of reconstructing improvements in Reserve A.
- L. Since Reserve C includes a swimming pool, a site plan shall be submitted with the final plat, for review and approval by the Planning Director. The site plan shall include the information indicated in the Subdivision Regulations. Otherwise a conditional use and public hearing will be needed in the future. **Department of Environmental Health** also advises of the need for plan review prior to licensing of the pool.
- M. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.
- N. For those reserves being platted for drainage purposes, the required covenant which provides for ownership and maintenance of the reserves shall grant, to the appropriate governing body, the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- O. The applicant shall submit a covenant, which provides for four (4) off-street parking spaces per dwelling unit on each lot,

which abuts a 58-foot street. The covenant shall inventory the affected lots by lot and block number and shall state that the covenant runs with the land and is binding on future owners and assigns.

- P. Approval of this plat will require a waiver of the lot depth to width ratio of the Subdivision Regulations for Lot 10, Block B. **The modification has been approved.**
- Q. **GIS** needs to comment on the plat's street names. **The street names are approved.**
- R. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- S. For any lots with existing tree rows that may be impacted by the installation of utilities, it is recommended that 30-ft utility easements be platted in order to allow for the installation of the utilities without damage to such tree rows.
- T. The platting text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- U. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- V. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- W. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- X. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- Y. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- Z. Perimeter closure computations shall be submitted with the final plat tracing.
- AA. Recording of the plat within 30 days after approval by the City Council and/or County Commission.
- BB. The representatives from the **utility companies** should be prepared to comment on the need for any additional utility easements to be platted on this property. **SBC has requested additional easements.**
- CC. A compact disc (CD), which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. If a disc is not provided, please send via e-mail to Cheryl Holloway (E-Mail address: cholloway@wichita.gov). Please include the name of the plat on the disc.

STRAHL This is the Blackstone Addition. The site adjoins the City of Wichita to the east, and it will need to be annexed. 13th Street North to the south is still a county road. At last week's Subdivision meeting, County Engineering requested a paving petition for 13th Street North to the west line of the plat. The paving would need to begin from the nearest paved segment, which would be from the Cheryl's Hollow Addition to the east, extending to the site, and the applicant last week objected stating his desire to pave only from the east segment to the entrance of the plat which is at this location right here. The Subdivision Committee agreed with the County Engineering recommendation and paving was required to the west line of the plat. The applicant is here today to appeal that issue, and we also have Jim Weber, Deputy Director of Public Works, in attendance.

PHIL MEYER, BAUGHMAN COMPANY, 315 ELLIS, WICHITA, KS 67211 We are appealing the decision on this plat that we pave to the west line of the plat. It is more of a principal issue from our point of view. The present policy that has been in affect for 4-6 years that anytime there is a subdivision that is adjacent to an unpaved arterial road the developer is responsible, at his expense, to bring a two-lane asphalt road to the entrance of the subdivision. The reason that policy is written to the entrance is because you never know how far off-site you have to go to get pavement. Sometimes you go a 1/8 or 1/2 mile. This particular developer when he did another plat to the east of this went about 3/4 a mile and put down asphalt pavement. The deal is the developer brings two lanes of asphalt to his entrance, and we are concerned about requiring a developer to go to the west line of the plat, or the east line of the plat, or to the other end of the plat, when the policy states that you are to go to the entrance. We are requesting the Planning Commission to follow the policy and support our request that we pave to the entrance of the plat.

JIM WEBER, DEPUTY DIRECTOR COUNTY PUBLIC WORKS What we have is a situation where the City has a policy that requires them to pave it only to the entrance. The street is still in the county. The recently approved Arterial Paving Policy is part of the Urban Fringe Development package, and would have required if this plat was separated from the city limits by 10 feet, would have required them to participate and bring pavement all the way across the pavement. So we brought it up as an issue for

consideration by the Subdivision Committee just because they are in conflict, and we at Subdivision Committee needed to make a decision to use the City standard or adopt a higher standard.

WARNER When this is completed will this subdivision be annexed into the City?

WEBER They will have to annex it to get their zoning.

WARNER Will the street be in the city at that time?

WEBER We have also requested that they annex the street as part of the platting requirements. There is a statute on the books that requires them to annex the adjacent street.

HILLMAN At this time the property is in the County?

WEBER The property is in the County until they apply for and get their annexation.

MITCHELL Part of the recommendation that I made to the Subdivision Committee that it be paved to the west end of the plat is not so much based on the conflict of the two policies as, it was my position, that because the west edge of the plat is the floodway line of Dry Creek, and my memory was that floodway line would extend generally south and southeast thereby making it difficult to get another area to be developed to the south that would then trigger the pavement of the rest of that section line road. When I went back and looked at the flood map, I was wrong. The floodplain line turns and runs parallel to 13th Street so almost all of the land south of this plat is available for development. I would assume, at some reasonable time, would be developed and pavement would be extended on the basis of that. I withdraw my recommendation to the Subdivision Committee that it be extended to the west line of the plat based on an erroneous assumption that the floodway would affect the development.

MCKAY I would like to ask some members of the Subdivision Committee if their decision was made based upon Mitch's information.

DOWNING I think I can speak, and yes, I do think that did influence us to some degree. We were concerned about not being able to extend that pavement out to the west edge of the plat, and along with Mr. Mitchell had I known the location and direction of the creek, I would not have voted to extend the concrete past the entrance into the subdivision.

MOTION: To approve subject to the City of Wichita policy and require pavement to entrance of the plat.

MITCHELL moved, **DOWNING** seconded the motion, and it carried (12-0).

2-5. DED 2005-27: Partial Dedication of Abutter's Access Rights (Access Control), located on the southwest corner of Maple and Maize Road.

APPLICANT: Thomas R. Morris, President of Downing-Lahey, Inc., 6555 E. Central, Wichita, KS 67206

AGENT/SURVEYOR: Baughman Company, P.A. 315 Ellis, Wichita, KS 67211

LEGAL DESCRIPTION: A portion of Lot 1, Block 1, Summerfield III Commercial Addition, Wichita, Sedgwick County, Kansas, described as beginning at the eastern most northeast corner of Lot 1; thence S08° 17'12" E, along the east line of Lot 1, 101.12 feet to a deflection point in the east line of Lot 1; thence S 00°14'39" W, along the east line of Lot 1, 119.94 feet to a point in the north line of Lot 6, Block 1, Lexington Addition, Wichita, Sedgwick County, Kansas; thence S90° 00'00"W, along the north line of Block 1, in Lexington Addition, 231.40 feet; thence 00°14'39"E, parallel with the east line of Lot 1, 112.40 feet; thence N90°00'00"E, parallel with the north line of Lot 1, 20.00 feet; thence N00°14'39"E, parallel with the east line of Lot 1, 22.50 feet; thence N90°00'00" E, parallel with the north line of Lot 1, 15.00 feet; thence N00°14'39"E, parallel with the east line of Lot 1, 85.10 feet, to a point on the eastern most north line of Lot 1, as extended west; thence N90°00'00" E, along the eastern most north line of Lot 1, 181.40 feet to the point of beginning.

PURPOSE OF DEDICATION: This dedication is associated with a lot split case (SUB 2005-99), and is being dedicated for complete access control, except for one opening along Maize Road.

STAFF RECOMMENDATION: Accept the Dedication.

MOTION: To approve subject to Staff and Subdivision Recommendation.

DUNLAP moved, **JOHNSON** seconded the motion, and it carried (12-0).

2-6. A) DED 2005-28: Dedication of a 20-Foot Utility Easement; and B) DED 2005-29: Dedication of a Drainage Easement, located north of Kellogg and west of Ridge Road.

A) DED 2005-28: Dedication of a Utility Easement and B) DED 2005-29: Dedication of a Drainage Easement for property located north of Kellogg and west of Ridge Road.

APPLICANT: Larry Cook, Cook Construction, LLC, a Kansas Limited Liability Company, 1206 E. Waterman, Ste. 216, Wichita, KS 67211

AGENT/SURVEYOR: Baughman Company, P.A. 315 Ellis, Wichita, KS 67211

LEGAL DESCRIPTIONS:

A) That part of Lot 7, Block B, Ridge Plaza Eighth Addition, Wichita, Sedgwick County, Kansas, described as commencing at the southeast corner of Lot 7; thence N03°58' E along the easterly line of Lot 7, 91.65 feet for a point of beginning; thence continuing N03°58' E along the easterly line of Lot 7, 18.80 feet to a deflection point in the easterly line of Lot 7; thence N14°50' E along said easterly line, 211.52 feet; thence N75°10'W, 231.48 feet; thence S49°49'19" E, 23.59 feet to the point of beginning.

B) That part of Lot 7, Block B, Ridge Plaza Eighth Addition, Wichita, Sedgwick County, Kansas, described as beginning at the southeast corner of Lot 7; thence S82°49'45"W along the south line of Lot 7, 144.87 feet to a deflection point in the south line of Lot 7; thence S83°26'46"W along the south line of Lot 7, 25.17 feet; thence N04°27'52"W, 129.87 feet; thence S89°39'07"E, 101.86 feet; thence N00°00'E, 104.18 feet; thence N82°44'34"E, 84.07 feet; thence N14°50'E, 238.11 feet; thence N26°50'45"E, 83.14 feet to a point on the northerly line of Lot 7; thence S63°45'E, 30 feet to the easterly most NE corner of Lot 7; thence S26°50'45"W along the east line of Lot 7, 80.30 feet to a deflection point in the east line of Lot 7; thence S14°50'W along the east line of Lot 7, 343.4 feet to a deflection point in the east line of Lot 7; thence S03°58' W along the east line of Lot 7, 110.45 feet to the point of beginning.

PURPOSE OF DEDICATIONS: These dedications are associated with a lot split case (SUB 2005-91), and are being dedicated for construction and maintenance of public utilities and for drainage purposes.

STAFF RECOMMENDATION: Accept the Dedications.

MOTION: To approve subject to Staff and Subdivision Recommendation.

DUNLAP moved, **JOHNSON** seconded the motion, and it carried (12-0).

2-5. DED 2005-27: Partial Dedication of Abutter's Access Rights (Access Control), located on the southwest corner of Maple and Maize Road.

APPLICANT: Thomas R. Morris, President of Downing-Lahey, Inc., 6555 E. Central, Wichita, KS 67206

AGENT/SURVEYOR: Baughman Company, P.A. 315 Ellis, Wichita, KS 67211

LEGAL DESCRIPTION: A portion of Lot 1, Block 1, Summerfield III Commercial Addition, Wichita, Sedgwick County, Kansas, described as beginning at the eastern most northeast corner of Lot 1; thence S08° 17'12" E, along the east line of Lot 1, 101.12 feet to a deflection point in the east line of Lot 1; thence S 00°14'39" W, along the east line of Lot 1, 119.94 feet to a point in the north line of Lot 6, Block 1, Lexington Addition, Wichita, Sedgwick County, Kansas; thence S90° 00'00"W, along the north line of Block 1, in Lexington Addition, 231.40 feet; thence 00°14'39"E, parallel with the east line of Lot 1, 112.40 feet; thence N90°00'00"E, parallel with the north line of Lot 1, 20.00 feet; thence N00°14'39"E, parallel with the east line of Lot 1, 22.50 feet; thence N90°00'00" E, parallel with the north line of Lot 1, 15.00 feet; thence N00°14'39"E, parallel with the east line of Lot 1, 85.10 feet, to a point on the eastern most north line of Lot 1, as extended west; thence N90°00'00" E, along the eastern most north line of Lot 1, 181.40 feet to the point of beginning.

PURPOSE OF DEDICATION: This dedication is associated with a lot split case (SUB 2005-99), and is being dedicated for complete access control, except for one opening along Maize Road.

STAFF RECOMMENDATION: Accept the Dedication.

MOTION: To approve subject to Staff and Subdivision Recommendation.

DUNLAP moved, **JOHNSON** seconded the motion, and it carried (12-0).

2-6. A) DED 2005-28: Dedication of a 20-Foot Utility Easement; and B) DED 2005-29: Dedication of a Drainage Easement, located north of Kellogg and west of Ridge Road.

A) DED 2005-28: Dedication of a Utility Easement and B) DED 2005-29: Dedication of a Drainage Easement for property located north of Kellogg and west of Ridge Road.

APPLICANT: Larry Cook, Cook Construction, LLC, a Kansas Limited Liability Company, 1206 E. Waterman, Ste. 216, Wichita, KS 67211

AGENT/SURVEYOR: Baughman Company, P.A. 315 Ellis, Wichita, KS 67211

LEGAL DESCRIPTIONS:

A) That part of Lot 7, Block B, Ridge Plaza Eighth Addition, Wichita, Sedgwick County, Kansas, described as commencing at the southeast corner of Lot 7; thence N03°58' E along the easterly line of Lot 7, 91.65 feet for a point of beginning; thence continuing N03°58' E along the easterly line of Lot 7, 18.80 feet to a deflection point in the easterly line of Lot 7; thence N14°50' E along said easterly line, 211.52 feet; thence N75°10'W, 231.48 feet; thence S49°49'19" E, 23.59 feet to the point of beginning.

B) That part of Lot 7, Block B, Ridge Plaza Eighth Addition, Wichita, Sedgwick County, Kansas, described as beginning at the southeast corner of Lot 7; thence S82°49'45"W along the south line of Lot 7, 144.87 feet to a deflection point in the south line of Lot 7; thence S83°26'46"W along the south line of Lot 7, 25.17 feet; thence N04°27'52"W, 129.87 feet; thence S89°39'07"E, 101.86 feet; thence N00°00'E, 104.18 feet; thence N82°44'34"E, 84.07 feet; thence N14°50'E, 238.11 feet; thence N26°50'45"E, 83.14 feet to a point on the northerly line of Lot 7; thence S63°45'E, 30 feet to the easterly most NE corner of Lot 7; thence S26°50'45"W along the east line of Lot 7, 80.30 feet to a deflection point in the east line of Lot 7; thence S14°50'W along the east line of Lot 7, 343.4 feet to a deflection point in the east line of Lot 7; thence S03°58' W along the east line of Lot 7, 110.45 feet to the point of beginning.

PURPOSE OF DEDICATIONS: These dedications are associated with a lot split case (SUB 2005-91), and are being dedicated for construction and maintenance of public utilities and for drainage purposes.

STAFF RECOMMENDATION: Accept the Dedications.

MOTION: To approve subject to Staff and Subdivision Recommendation.

DUNLAP moved, **JOHNSON** seconded the motion, and it carried (12-0).

2-7. DR 2005-15: Street Name Change (From 31st Street North to Toben), located west of Webb Road and north of 31st Street North.

APPLICANT: Christian Ablah, c/o Restaurant Webb, LLC, 8200 E. 32nd Street No., Ste. 150, Wichita, KS 67226

LOCATION: West side of Webb Road and South of 37th Street North.

LEGAL DESCRIPTION: 31st Street North, beginning at the west right-of-way line of Webb Road extending to Toben (located between Blocks 3 and 4, Mediterranean Plaza Addition)

REASON FOR REQUEST: Renaming of 31st Street North to Toben for easier identification purposes.

CURRENT ZONING: LI, Limited Industrial

MOTION: To approve subject to Staff and Subdivision Recommendation.

DUNLAP moved, **JOHNSON** seconded the motion, and it carried (12-0).

❖ **PUBLIC HEARINGS – VACATION ITEM**

3-1. VAC 2005-40: Request to Vacate a Portion of Platted Complete Access Control.

APPLICANTS/OWNERS: James & Cheryl Roach

AGENT: Terra Tech Land Surveying, c/o Michele Webster

LEGAL DESCRIPTION: Generally described as allowing one opening/drive along that portion of Lot 1, Block 3, the First Addition to Bentley Farms, Sedgwick County, Kansas, running parallel to 103rd Street West, that will be redefined by a lot split

LOCATION: Generally located south of 101st Street North, at the southwest corner of 103rd Street West and Mariah Street (BoCC District #4)

REASON FOR REQUEST: Associated with a lot split, will allow a driveway onto 103rd Street West

CURRENT ZONING: The site, all abutting and all adjacent properties are zoned "RR" Rural Residential

The applicant has applied for the vacation of a portion of the complete access control along the site's south 29.97-feet of its 103rd Street West frontage, to allow a driveway. An associated lot split, SUB2005-122, will divide Lot 1, Block 3, the First Addition to Bentley Farms, into Parcel 1 and Parcel 2, which is the subject site. This is a County case and there are no water or sewer lines located in the right-of-way. Comments from franchised utilities have not been received and are needed to determine if they have utilities in the ROW. The First Addition to Bentley Farms was recorded with the Register of Deeds June 2, 2000.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from Public Works, franchised utility representatives and other interested parties, Planning Staff recommends approval to vacate a portion of the platted access control, per the approval of the County Engineer, with conditions.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, by publication in the Derby Reporter of notice of this vacation proceeding one time November 17, 2005 which was at least 20 days prior to this public hearing.
 2. That no private rights will be injured or endangered by the vacation of the above-described portion of platted complete access control and the public will suffer no loss or inconvenience thereby.
 3. In justice to the petitioner, the prayer of the petition ought to be granted.
- B. Therefore, the vacation of a portion of the platted complete access control described in the petition should be approved with conditions:
1. Vacate that portion of platted access control along the site's 103rd Street West frontage, as approved by the County Engineer to allow one drive onto 103rd Street West.
 2. The lot split, SUB2005-122, associated with the vacation request must be completed and recorded with the Register of Deeds prior to the vacation case going to the BoCC for final action. Provide Planning Staff with a revised legal reflecting the recorded lot split.
 3. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants.
 4. All improvements shall be according to County Standards, including any driveways from private property onto public ROW.
 5. Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Vacate that portion of platted access control along the site's 103rd Street West frontage, as approved by the County Engineer to allow one drive onto 103rd Street West.
- (2) The lot split, SUB2005-131, associated with the vacation request must be completed and recorded with the Register of Deeds prior to the vacation case going to the BoCC for final action. Provide Planning Staff with a revised legal reflecting the recorded lot split.
- (3) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants.
- (4) All improvements shall be according to County Standards, including any driveways from private property onto public ROW.
- (5) Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

MOTION: To approve subject to Staff and Subdivision Recommendation.

ALDRICH moved, **DOWNING** seconded the motion, and it carried (12-0).

3-2. VAC 2005-41: Request to Vacate a Portion of a Platted Utility Easement and the Restriction of Uses in a Platted Reserve.

OWNER/APPLICANT:

Richard D. Smith

AGENT:

MKEC Engineering Consultants, c/o Brian Lindebak

LEGAL DESCRIPTION:

Vacate a portion of a Reserve F & the plat text's restriction of uses in regards to uses allowed in Reserve F, Autumn Chase Addition, Wichita, Sedgwick County, Kansas
Vacate the platted 10-foot utility easement located along the south (rear) property line of Lot 4, Autumn Chase Addition, Wichita, Sedgwick County, Kansas

<u>LOCATION:</u>	Generally located midway between Central Avenue & 13 th Street North, west of Webb Road, more specifically southeast of Gatewood and Autumn Chase Streets
<u>REASON FOR REQUEST:</u>	To allow an addition to single-family residence
<u>CURRENT ZONING:</u>	Subject property and all abutting and adjacent properties are zoned "SF-5" Single-family Residential.

The applicant is requesting consideration for the vacation of a portion of Reserve F that abuts the rear lot line of Lot 4, Autumn Chase Addition and the restriction of uses in the plat's text for platted Reserve F, Autumn Chase Addition, to allow only "SF-5" uses and an easement in that vacated portion of the platted reserve. The uses that Reserve F has been set aside for include drainage purposes, landscaping, sidewalks, gazebos, pools and related recreational facilities, tennis courts, lights, benches, exercise trails, lakes and a floodway. There are already some utilities in the reserve, which, per the plat's text are not allowed. The applicant is also requesting that the platted 10-foot utility easement located along the rear lot line of Lot 4, Autumn Chase Addition, be vacated. The applicant requests the vacations to allow an addition to the single-family residence on the site. The rear yard setback is per the UZC for the SF-5: zoning district, any encroachments into the rear yard setback, as established by the Vacation Order will seek remedy by either an administrative adjustment or a variance. The Autumn Chase Addition was recorded with the Register of Deeds April 15, 1987.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from City Public Works, franchised utility representatives, and other interested parties, Planning Staff recommends approval to vacate the a portion of the platted Reserve F, the uses of that portion of the platted Reserve F, and a portion of the platted utility easement as described in the legal description to allow a portion of the platted reserve to revert into private property, allow additional uses in that portion of the vacated reserve and to vacate the platted utility easement with conditions.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
 1. That due and legal notice has been given by publication as required by law, by publication in the Wichita Eagle of notice of this vacation proceeding one time November 17, 2005 which was at least 20 days prior to this public hearing.
 2. That no private rights will be injured or endangered by the vacation of the above-described portion of the platted reserve, the uses allowed in vacated portion of the platted reserve and a portion of a platted easement and the public will suffer no loss or inconvenience thereby.
 3. In justice to the petitioner, the prayer of the petition ought to be granted.
- B. Therefore, the vacation of a portion of the platted reserve, the uses allowed in the vacated portion of the platted reserve and a portion of the platted utility easement described in the petition should be approved subject to the following conditions:
 - (1) Vacate that portion of the Reserve F that abuts only the rear lot line of Lot 4, all in the Autumn Chase Addition and that will entirely contain a 10-foot replacement utility easement. Provide Planning Staff and Public Works with a revised site plan showing the proposed vacated portion of Reserve F. Provide Storm Water with any plans needed for the vacated portion of Reserve F in regards to the changing of the grade within that portion of the vacated reserve and to confirm that the proposed size and configuration of the vacated portion of Reserve F does not adversely affect the Reserve and the neighboring properties. The revised site plan and any plans needed by Public Works/Storm Water must be received and reviewed by staff prior any dedications and prior to the VAC2005-41 going to the WCC for final action and prior to the issuance of building permits. Provide Planning Staff with a metes and bound description (legal description) on a word document, via e-mail, of the vacated portion of Reserve F, as approved by Public Works/Storm Water.
 - (2) Provide Staff with an affidavit from the Home Owners Association that certifies their approval of the sale of the vacated portion of Reserve F to the owner of Lot 4, all in the Autumn Chase Addition.
 - (3) Vacate the use restrictions as listed in the vacated portion of Reserve F to allow only "SF-5" zoning district uses and utilities confined to easements, in this case easements dedicated by separate instrument that will be placed in the vacated portion of Reserve F.
 - (4) Provide Planning Staff with a restrictive covenant binding and tying the vacated portion of Reserve F to Lot 4, all in the Autumn Chase Addition, to be sent with the Vacation Order to be recorded wit the Register of Deeds.
 - (5) Dedicate by separate instrument a utility easement, located in the approved area within the vacated portion of Reserve F, joined to Lot 4, all in the Autumn Chase Addition, by a restrictive covenant for placement of utilities. The easement must be a minimum of 10-foot in width; the applicant has recorded a 5-foot easement and an additional 5-foot wide easement joined and running parallel the length of this recorded easement will meet that requirement. Provide planning Staff with the dedication of easement to be sent to the Register of Deeds with the Vacation Order.
 - (6) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant. There are utilities in the platted easement. The platted easement will remain in effect until all utilities have been removed from it and placed in the appropriate easement. Per the plat's text no utilities or utility

easements are allowed in the Reserve F, the Autumn Chase Addition. Provide Planning Staff with confirmation from the Utility Companies that all utilities have been relocated.

- (7) All improvements shall be according to City Standards.
- (8) Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Vacate that portion of the Reserve F that abuts only the rear lot line of Lot 4, all in the Autumn Chase Addition and that will entirely contain a 10-foot replacement utility easement. Provide Planning Staff and Public Works with a revised site plan showing the proposed vacated portion of Reserve F. Provide Storm Water with any plans needed for the vacated portion of Reserve F in regards to the changing of the grade within that portion of the vacated reserve and to confirm that the proposed size and configuration of the vacated portion of Reserve F does not adversely affect the Reserve and the neighboring properties. The revised site plan and any plans needed by Public Works/Storm Water must be received and reviewed by staff prior any dedications and prior to the VAC2005-41 going to the WCC for final action and prior to the issuance of building permits. Provide Planning Staff with a metes and bound description (legal description) on a word document, via e-mail, of the vacated portion of Reserve F, as approved by Public Works/Storm Water.
- (2) Provide Staff with an affidavit from the Home Owners Association that certifies their approval of the sale of the vacated portion of Reserve F to the owner of Lot 4, all in the Autumn Chase Addition.
- (3) Vacate the use restrictions as listed in the vacated portion of Reserve F to allow only "SF-5" zoning district uses and utilities confined to easements, in this case easements dedicated by separate instrument that will be placed in the vacated portion of Reserve F.
- (4) Provide Planning Staff with a restrictive covenant binding and tying the vacated portion of Reserve F to Lot 4, all in the Autumn Chase Addition, to be sent with the Vacation Order to be recorded with the Register of Deeds.
- (5) Dedicate by separate instrument a utility easement, located in the approved area within the vacated portion of Reserve F, joined to Lot 4, all in the Autumn Chase Addition, by a restrictive covenant for placement of utilities. The easement must be a minimum of 10-foot in width; the applicant has recorded a 5-foot easement and an additional 5-foot wide easement joined and running parallel the length of this recorded easement will meet that requirement. Provide planning Staff with the dedication of easement to be sent to the Register of Deeds with the Vacation Order.
- (6) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant. There are utilities in the platted easement. The platted easement will remain in effect until all utilities have been removed from it and placed in the appropriate easement. Per the plat's text no utilities or utility easements are allowed in the Reserve F, the Autumn Chase Addition. Provide Planning Staff with confirmation from the Utility Companies that all utilities have been relocated.
- (7) All improvements shall be according to City Standards.
- (8) Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds

MOTION: To approve subject to Staff and Subdivision Recommendation.

ALDRICH moved, **DOWNING** seconded the motion, and it carried (12-0).

3-3. VAC 2005-42: Request to Vacate a Portion of a Platted Setback.

OWNER/APPLICANT: Mennonite Housing, c/o Lou Confessori

LEGAL DESCRIPTION: The east 22-feet of the platted 28-foot setback on the west side of Lot 1, Heather Addition, Wichita, Sedgwick County, Kansas.

LOCATION: Generally located west of Arkansas Avenue, on the southwest corner of 29th Street North and Woodland Avenue (WCC District VI)

REASON FOR REQUEST: Associated with a lot split to allow single-family residence to be built

CURRENT ZONING:

Subject property and abutting south and west properties are zoned SF-5" Single-family Residential. Abutting eastern and adjacent northern properties are zoned "LC" limited Commercial and "SF-5"

The applicant proposes to vacate the east 22-feet of the platted 28-foot setback, as described, to make more room on the site to build a single-family residence. There is a lot split, SUB2005-131, associated with this case. The lot split will make the western half of Lot 1, Heather Addition, the subject site, into Parcel A, Heather Addition. The lot split will reconfigure the site and make its western side the interior side yard. The UZC's interior side yard setback for the "SF-5" zoning district is 6-feet, which is what the applicant is requesting. There is a platted 10-foot utility and drainage easement that will remain in effect along the subject site's west side. Water lines are in the right-of-way and sewer lines are protected by the platted utility and drainage easement on the north side off the subject site. Comments from franchised utilities have not been received and are needed to determine if they have utilities in the platted setback. The Heather Addition was recorded with the Register of Deeds on September 23, 1998.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from City Public Works, franchised utility representatives and other interested parties, Planning Staff recommends approval to vacate the portion of the platted interior side yard setback as described in the legal description with the following conditions.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
 - 1. That due and legal notice has been given by publication as required by law, by publication in the Wichita Eagle of notice of this vacation proceeding one time November 17, 2005, which was at least 20 days prior to this public hearing.
 - 2. That no private rights will be injured or endangered by the vacation of the above-described portion of the platted setback and the public will suffer no loss or inconvenience thereby.
 - 3. In justice to the petitioner, the prayer of the petition ought to be granted.
- B. Therefore, the vacation of the portion of the platted setback described in the petition should be approved with conditions:
 - 1. Vacate the east 22-feet of platted setback. The platted easement will remain in effect.
 - 2. The lot split, SUB2005-131, associated with the vacation request must be completed and recorded with the Register of Deeds prior to the vacation case going to City Council for final action. Provide Planning Staff with a revised legal reflecting the recorded lot split.
 - 3. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.
 - 4. All improvements shall be according to City Standards.
 - 5. Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

- 1) Vacate the east 22-feet of platted setback. The platted easement will remain in effect.
- 2) The lot split, SUB2005-131, associated with the vacation request must be completed and recorded with the Register of Deeds prior to the vacation case going to City Council for final action. Provide Planning Staff with a revised legal reflecting the recorded lot split.
- 3) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.
- 4) All improvements shall be according to City Standards.
- 5) Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

MOTION: To approve subject to Staff and Subdivision Recommendation.

ALDRICH moved, **DOWNING** seconded the motion, and it carried (12-0).

❖ **PUBLIC HEARINGS**

4. **Case No.: DR2005-24** – Request Zone change from “LI” Limited Industrial and “GC” General Commercial to “CBD” Central Business District General Location: Within an area bounded by a line beginning at the intersection of Washington Ave. and 2nd Street North, thence east along 2nd Street North to I-135, thence south along the west right of way of I-135 to Douglas Ave., thence continuing south along said right of way to the southern boundary Kansas Food Bank Warehouse Add., thence west on said boundary to Minneapolis St., thence north to east/west alley, thence west along said alley to Kansas Ave. thence south to east/west alley, thence west to Hydraulic, thence south along Hydraulic Ave. to Waterman St., thence west along Waterman to the BNSF railroad right-of-way, thence north to Douglas Ave., thence east to Washington Ave., and thence north to the point of beginning

Background: On September 13, 2005, Wichita City Council voted (7-0) to initiate a rezoning from “LI” Limited Industrial and “GC” General Commercial to “CBD” Central Business District for an area described as:

Beginning at the SW/corner of the NE/4 of sec 21 Twp27 R1E; thence North along the west line of said qtr sec on a bearing of N 1degrees 19'0.12" W a distance of 1300.00'; to the center line of 2nd St N; thence along the said center line, N 88degrees 49'22.77" E a distance of 2665.49'; thence N 83degrees 17'31.59" E a distance of 215.10'; thence N 89degrees16'35.14" E a distance of 438.38'; to the west right-of-way line of Interstate Hwy I-135; thence southeasterly on the said right-of-way to the Southeast corner of the Kansas Food Bank Warehouse Add.; thence S 89degrees 40'32" W along the south line of said addition; thence N 21degrees55'18.32" W a distance of 182.99' to the SE corner of Lot 47, Black's Addition; thence S 88degrees 57'50.99" W a distance of 300.36' to the Southwest corner of Lot 25, Black's Addition; thence S 53degrees9'51.39" W a distance of 87.18' to the Southeast corner of Lot 4 Buchanan's Addition to Wichita; thence S 88degrees 45'8.34" W a distance of 300.81', to the Southwest corner of Res A, Buchanan's Addition to Wichita; thence N 75degrees 11'23.61" W a distance of 73.63' to the NE corner of Lot 1, on Hydraulic Street, Hyde's Addition; thence S 0degrees 56" 42.09" E a distance of 400.77' to the SE corner of Lot 31, on Hydraulic Street, Hyde's Addition; thence S 1degrees 39'11.71" E a distance of 75.56'; thence S 0degrees 51" 42.23 E a distance of 585.10' to the center line of Waterman Street; thence S 88degrees 23" 16.95' W a distance of 2582.14' along the center line of Waterman Street; thence continuing west along Waterman Street, S 86degrees 51" 15.79' W a distance of 359.91'; thence S87degrees 12" 14.90' W a distance of 386.96'; thence S 85degrees 57" 54.87' W a distance of 299.51'; thence N 15degrees 17'53.79" W a distance of 38.77' to the SW corner of Lot 2, Union Station Addition, said point being the intersection of the north right-of-way line of Waterman Street and the east line of the railroad right-of-way; thence north along said railroad right-of-way to the intersection of the south right-of-way line of Douglas Ave.; thence N 0degrees 8" 49.43 W a distance of 53.25' to the center line of Douglas Ave.; thence n 88 degrees 41" 21.70' E along said center line a distance of 1052.05' to the west line of the NE/4 of sec 21 Twp27 R1E; thence N 2degrees 35" 57.33 W along the west line of said qtr sec to the point of beginning.

The City Council initiated the rezoning action pursuant to the Unified Zoning Code provision that the “Governing Body may initiate a zone change request with or without an application from the property owners” (Unified Zoning Code Art. V, Sec. V-A.1).

Analysis: The area proposed for rezoning to “CBD” is roughly fifty city blocks in size and includes a rich diversity of residential, institutional, commercial and industrial uses. Industrial uses include manufacturing firms such as the Wichita Eagle, Big Dog Motorcycles, McCormick Armstrong plus many smaller firms. Many construction sales and service uses dot the area, including at least two lumberyards and a number of contractor office and warehouse sites. Another large cluster of uses include auto sales lots, auto repair, and auto parts. The variety of commercial and retail uses spans a large new furniture store (Abode) recently constructed on a new zero-lot setback site along Douglas to small independent merchants along Douglas storefronts that help maintain the area as a walkable urban downtown shopping area. Several office and institutional uses have invested in the area, including the new Red Cross headquarters redeveloped on an old car dealership facility, Wichita Children's Theatre and Dance Center, United Methodist Urban Ministries; Kansas Foodbank, Inc. has plans to construct a new facility southwest of Douglas and I-135. Perhaps the most surprising use is residential. Around 20 percent of the existing land still is occupied by residential use, although the current “LI” zoning makes this type of use nonconforming.

The proposed rezoning area borders the Old Town Overlay district, which has emerged as a destination for commercial and residential reuse. Some property owners on the fringe of the Old Town district have sought to expand the redevelopment into the area proposed for “CBD” zoning.

Constraints with Existing Zoning: The prohibition of residential use is the most significant disadvantage with the current “LI” zoning. “LI” allows incompatible uses (by right or by Conditional Use) with the urban core such as asphalt plant (general), gas and fuel storage, freight terminal, landfill, transfer station, and wrecking/salvage yard. Approximately four properties are zoned “GC” General Commercial, and rezoning to “CBD” would represent an increase in intensity of permitted uses for these properties.

Proposed Zoning: “CBD” zoning would allow residential use, bed and breakfast inn and group homes. It will prohibit future establishment of kennels, tattoo parlors, day reporting centers, asphalt plant (general), gas and fuel storage, freight terminal, landfill, transfer station and wrecking/salvage yard. Other “CBD” advantages include the following: (1) removes the off-site parking requirements to allow flexibility in developing shared parking facilities to serve multiple parking needs, (2) eliminates building setbacks to allow zero-lot setbacks in character with traditional downtown development and that is compatible with the trends in loft/apartment uses, and (3) eliminates height restrictions to allow higher intensity use that reinforces the viability and liveliness of the urban area.

The proposed rezoning area perhaps has languished in terms of desirability over the past 30 years as the suburban expansion of industrial, auto and commercial uses took its toll on the commercial viability of the properties. In the recent past, the trend perhaps is changing. The Old Town overlay district located to the northwest of this area has had a renewed development activity, including addition of restaurants, sports bars, the Old Town Theater and museums. Recently, it has experienced a burst of residential

redevelopment. (The property is zoned "LI" Limited Industrial but the area is subject to an overlay, "OT-O" that specifically permits residential use.) At least five existing warehouses or commercial buildings have been converted to residential lofts or mixed residential and commercial uses, and more are under construction or are in the planning stages. One hotel has been redeveloped from an old warehouse and a second is in the planning stages. Also, the area to the west of this proposed rezoning area is the East Douglas Historic District. The East Douglas area includes a park, the Eaton Place, the largest single residential conversion in the urban core, and adjoins the proposed Sedgwick County arena.

These trends in adjoining districts have spilled over to the area under consideration for "CBD" zoning and we see renewed interest in redevelopment. In addition to the development uses discussed previously, several owners have sought to expand the "OT-O" district in order to redevelop their properties. In one case, it was to permit a building to be converted to residential lofts; in another is was to participate in the Old Town Parking District since on-site parking was not available for a site south of Douglas. A third site on Douglas was rezoned to "GC" General Commercial to enable mixed commercial and residential use.

Recommended Action: The "CBD" zoning district offers the largest range of uses to accommodate the continued use of the area for industrial and commercial type uses, but to encourage urban mixed use redevelopment with an increasing component of retail catering to the public and residential use. Based on these factors and the information available prior to the public hearing, staff **recommends approval of "CBD" zoning for the proposed area.**

This recommendation is based on the following findings:

1. **The zoning, uses and character of the neighborhood:** The area has a very diverse mix of residential uses, commercial and industrial uses including retail, auto-related commercial use such as vehicle sales and vehicle repair, office use, institutional use, construction sales and service business, wholesale and office business, warehousing and manufacturing. The zoning is "LI" except for a few isolated "GC" tracts. The surrounding area to the northwest is within both the Old Town Overlay district and Wichita Warehouse and Jobbers National Historic District. The downtown area to the west is zoned "CBD", and most of the adjacent property is within the East Douglas Ave. National Historic District. A portion of the proposed rezoning is within the 500-foot environs of these national historic districts. Two properties within the proposed rezoning area are listed separately, the Rock Island Depot (state/national listing) and St. Anthony's Church (local listing). The property to the southeast of Douglas and Hydraulic is zoned "GC" along Hydraulic and "B" Multi-family Residential for the rest of the property between Hydraulic and I-135. This area still is predominately mixed low to moderate density residential use and includes the McKnight Addition residential neighborhood. The area to the south of Waterman between Hydraulic and Lulu is zoned mostly "GC" and the area between Lulu and Washington is zoned "LI". The area to the north of 2nd Street North between Washington and Cleveland is zoned "LI" and the area between Cleveland and I-135 is a patchy mix of "GC" and "B". These areas north and south of the proposed rezoning area are occupied by a variety of residential, office, commercial service and industrial uses, but they are less proximate to Douglas so lack the walkable urban shopping district character of the area within the proposed rezoning tract.
2. **The suitability of the subject property for the uses to which it has been restricted:** The desire for reusing a portion of the area for residential use is prohibited by the current zoning. Several property owners have sought to convert their property to "OT-O" (ZON2000-00042) or "GC" (ZON2004-00032; ZON2004-00054) zoning to circumvent this prohibition; at least three other properties previously were zoned "GC" rather than "LI" to continue residential use as a legal conforming use (SE corner of Douglas and Washington, SW corner of Douglas and Rock Island and NE corner of 1st Street North and Victor). If the whole area were rezoned, probably more uses would seek to mix residential/commercial use with industrial type uses.
3. **Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant:** The relative gain is to both the property owners who seek to redevelop their property and to the city from redevelopment of a part of the urban core. Perhaps a hand-full of businesses would become nonconforming but a far greater number of residential uses would become conforming uses again.
4. **Extent to which removal of the restrictions will detrimentally affect nearby property:** Certain industrial and manufacturing uses would no longer be permitted and would become nonconforming.
5. **Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies:** The proposed amendments support the following Comprehensive Plan's Goals/Objectives/Strategies: **Goal II Land Use Residential/Objective A: Encourage residential redevelopment...that maximizes the public investment in existing and planned facilities and services/Strategy A1. Use...zoning as tool to promote mixed-use development, higher density residential environments and appropriate buffering. AND A6. Encourage the concentration of multi-family residential and mixed-use commercial development to activity centers within the central Wichita area...locations can be priority areas for financial incentives, beautification and amenity initiatives,...based on opportunities for new residential/commercial development.** The rezoning enables this to occur.
6. **Impact of the proposed development on community facilities:** Since "CBD" does not require on-site parking, there could be pressure to develop shared surface parking lots or parking structures.

CRAIG GRABLE, 641 S. Pattie, WICHITA KS I own three four-plex's in the area, and I would like to know how this will affect our property taxes now that everything is rezoned or if will? This is nice but it does not address these issues.

SCHLEGEL I doubt that it will have any impact at all on your appraisal values. My knowledge of the appraisal process is that they do it more based on the use of the property than they do based on the zoning.

GRABLE All my properties are zoned multi-family, from multi-family to something similar to general commercial is a big change.

GOLTRY If you are within this area, then they are zoned Limited Industrial. Multi-family is not a permitted use today, and your use would be considered a legal non-conforming use. However, if they were destroyed by a fire or other similar activity you would not be able to rebuild them as apartments unless this change occurs.

GRABLE Every time I have contacted the Planning Department they have said it is multi-family.

GOLTRY Maybe you should point the properties out on the map. (Asking Mr. Grable to identify his properties)

SCHLEGEL That is Limited Industrial.

ALDRICH This rezoning would not include the authorization of SOBs in the area?

GOLTRY If the sexually oriented business case moves forward and is adopted at City Council, then SOBs will not longer be allowed in "CBD".

SCHLEGEL Those proposed changes will be up for second reading at the WCC meeting next Tuesday.

MOTION: To approve subject to staff recommendation.

WARNER moved, **JOHNSON** seconded.

MOTION CARRIED 9-0-1. (MCKAY abstains conflict of interest).

5. **Case No.: DR2005-23** – Request Zone change from "LI" Limited Industrial to "CBD" Central Business District
General Location Between St. Francis Avenue, William Street, BNSF railroad right-of-way (one-half block east of Commerce Street) and Kellogg

Background: On September 13, 2005, Wichita City Council voted (7-0) to initiate a rezoning from "LI" Limited Industrial to "CBD" Central Business District for an area described as:

Odd lots 29-75 on Fourth Street, now St Francis Ave., in N.A. English Addition; Even lots 38-76 on Fifth St, now Santa Fe Ave, in N.A. English Addition; Odd lots 77-107 on Fourth Street, now St Francis Ave, in N.A. English 3rd Addition; Even lots 78-108 on Fifth St, now Santa Fe Ave., in N.A. English Addition; Lots 1-29 on Fourth Street now St Francis Ave. in Fletchers Addition; Lots 31-39 on Fifth St, now Santa Fe Ave., in Fletchers Addition; Lots 1-15 on Fifth St, now Santa Fe Ave., in Fletchers 2nd Addition;

Together with a unplatted tract described as

BEG SW COR LOT 39 FLETCHERS ADD S 50 FT E 140 FT N 50 FT W TO BEG EXC ST. SW1/4 SEC 21-27-1E

Together with a unplatted tract described as

BEG 50 FT S SW COR LOT 39 FLETCHERS ADD S 100 FT E 100 FT NE ALG ROW TO

PT E OF BEG W TO BEG EXC S 49.9 FT TO CITY CCA-33119

Together with vacated English St from the east line of Fourth Street, now St Francis Ave to the west line of Fifth St, now Santa Fe Ave., in N.A. English Addition:

Together with vacated Lewis St from the east line of Fourth Street, now St Francis Ave to the west line of Fifth St, now Santa Fe Ave., in N.A. English 3rd Addition:

Generally described as being located between St. Francis Ave., William St., BNSF railroad right-of-way one-half block east of Commerce St. and Kellogg.

The City Council initiated the rezoning action pursuant to the Unified Zoning Code provision that the "Governing Body may initiate a zone change request with or without an application from the property owners" (Unified Zoning Code Art. V, Sec. V-A.1).

Analysis: The area proposed for rezoning to "CBD" is a three-block stretch flanking both sides of Commerce Street south of William Street to Kellogg. The BNSF railroad forms the eastern edge and St. Francis Street forms the western edge. The area is spontaneously undergoing a transition from industrial/manufacturing uses to a broader mix of uses with residential, commercial, and institutional uses being added. In the past five years, several retail shops have opened such as Dock 410 and Fiber Studio. Fiber Studio is unique because the owners of this site requested rezoning of the property to "CBD" in 2000 in order to locate the studio and gallery for artists on the main floor and a residence on the second floor. Just recently several other owners on the same block of Commerce also were approved for "CBD" zoning in order to combine studios with loft apartments. A larger loft conversion is underway on a "CBD" zoned tract across St. Francis Street (201 S. St. Francis, known as the Lofts at St. Francis) from the proposed rezoning area.

The area north of Waterman, except for two properties, was selected as the site for the Sedgwick County arena. The area site constitutes roughly 40 percent of this proposed rezoning initiative. These properties fall within the area shown for the arena building and the adjoining VIP parking lot. The most likely impact of this site selection will be intensified demand on the remainder of the area for more retail and restaurant types of commercial use, mixed with residential use. These uses would be added to or replace the existing mix of industrial, contractor sales and service (heating, electrical, etc) and auto repair uses.

Constraints with Existing Zoning: The prohibition of residential use is the most significant disadvantage with the current "LI" zoning. "LI" allows uses incompatible with the urban core, by right or by Conditional Use, including: asphalt plant (general), gas and fuel storage, freight terminal, landfill, transfer station, and wrecking/salvage yard.

Proposed Zoning: "CBD" zoning would allow residential use, bed and breakfast inn and group homes. It will prohibit future establishment of kennels, tattoo parlors, day reporting centers, asphalt plant (general), gas and fuel storage, freight terminal, landfill, transfer station and wrecking/salvage yard. Other "CBD" advantages include the following: (1) removes the off-site parking requirements to allow flexibility in developing shared parking facilities to serve multiple parking needs, (2) eliminates building setbacks to allow zero-lot setbacks in character with traditional downtown development and that is compatible with the trends in loft/apartment uses, and (3) eliminates height restrictions to allow higher intensity use that reinforces the viability and liveliness of the downtown area.

Recommended Action: Based on information available prior to the public hearing, staff recommends approval of "CBD" zoning for the proposed area.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The area is spontaneously undergoing a transition from industrial/manufacturing uses to a broader mix of uses with residential, commercial, and institutional uses being added, although many traditional industrial, construction sales and service and auto-repair types of uses remain and some tracts are devoted to surface parking lots to support other more intensive urban-type development in the vicinity. All the property to the west of St. Francis, the western boundary of the proposed rezoning area, is zoned "CBD" already.
2. The suitability of the subject property for the uses to which it has been restricted: The desire for reusing a portion of the area for residential use is prohibited by the current zoning. Several property owners south of Waterman have sought to convert their property to "CBD" zoning (one property in 2000 and four properties in 2005) to circumvent this prohibition. If the whole area were rezoned, probably more properties would seek to mix residential and commercial uses, particularly since the Sedgwick County arena site includes the northern portion of the site. The arena is a permitted use in the current "LI" and proposed "CBD" zoning district.
3. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: The relative gain is both to the property owners who seek to redevelop their property and to the city from redevelopment of a part of the urban core.
4. Extent to which removal of the restrictions will detrimentally affect nearby property: Certain industrial and manufacturing uses would no longer be permitted and would become nonconforming.
5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The proposed amendments support the following Comprehensive Plan Goals/Objectives/Strategies – **Goal II Land Use Residential/Objective A: Encourage residential redevelopment...that maximizes the public investment in existing and planned facilities and services/Strategy A1. Use...zoning as tool to promote mixed-use development, higher density residential environments and appropriate buffering. AND A6. Encourage the concentration of multi-family residential and mixed-use commercial development to activity centers within the central Wichita area...locations can be priority areas for financial incentives, beautification and amenity initiatives,...based on opportunities for new residential/commercial development.** The rezoning enables this to occur and the arena redevelopment plan may spur additional activity.
6. Impact of the proposed development on community facilities: Since "CBD" does not require on-site parking, there could be pressure to develop shared surface parking lots or parking structures if development intensifies to create parking demand beyond the availability from provided by the new development.

HENTZEN I have a question about the "CBD" Central Business District. Is what we are doing is expanding it?

DUNLAP I have asked Donna to explain "CBD" Central Business District to us all because I think there are some questions.

HENTZEN Does the "TIF" financing of the area close to it affect our change to "CBD"?

SCHLEGEL No, it is to a different action.

HENTZEN That is all I am asking, the financing of the original "TIF" district.

MOTION: To approve subject to Staff Recommendation.

MITCHELL moved, **DOWNING** seconded the motion, and it carried (11-0-1).

MCKAY abstains.

6. **Case No.: DR2005-33** – Request Zone change from "LI" Limited Industrial to "CBD" Central Business District
General Location Within the area beginning at the intersection of Waterman St. and Washington Ave., thence south of Washington Ave. to Kellogg, thence west of Kellogg approx. 750 feet to the boundary of the BNSF railroad right-of-way/terminal, thence north to Waterman St., and thence east to Washington Ave.

Background: On October 20, 2005, MAPC voted (7-0) to initiate a rezoning from "LI" Limited Industrial and "GC" General Commercial to "CBD" Central Business District for an area generally described as between the BNSF railroad yard, Kellogg, Washington Avenue and Waterman Street. MAPC initiated the rezoning action pursuant to the Unified Zoning Code provision that the "Planning Commission or the Governing Body may initiate a zone change request with or without an application from the property owners" (Unified Zoning Code Art. V, Sec. V-A.1).

Analysis: The area proposed for rezoning to "CBD" is zoned "LI" Limited Industrial. Warehousing, manufacturing, construction sales and service businesses, outdoor storage, some retail, a fuel outlet, a parking lot for an office north of Waterman, and the City of Wichita Transit Operations Center currently occupy the area.

The proposed rezoning area is located to the south and east of two other "CBD" cases being considered by MAPC (DR2005-00023 and DR2005-00024). If this area is approved, and the other two cases also are approved, "CBD" zoning would blanket all properties west of Washington between Kellogg and Douglas.

Constraints with Existing Zoning: The prohibition of residential use is the most significant disadvantage with the current "LI" zoning. "LI" allows incompatible uses (by right or by Conditional Use) with the urban core such as asphalt plant (general), gas and fuel storage, freight terminal, landfill, transfer station, and wrecking/salvage yard.

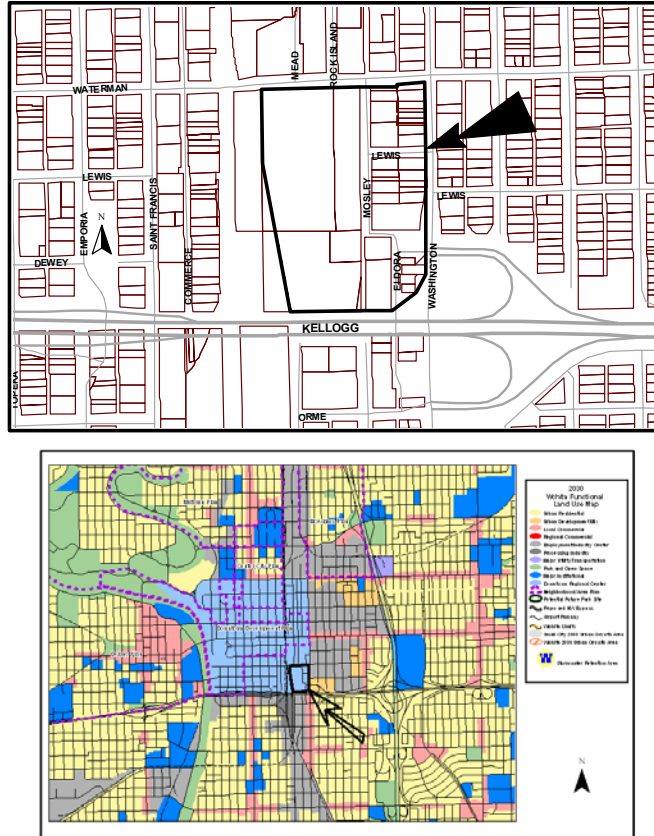
Proposed Zoning: "CBD" zoning would allow residential use, bed and breakfast inn and group homes. It will prohibit future establishment of kennels, tattoo parlors, day reporting centers, asphalt plant (general), gas and fuel storage, freight terminal, landfill, transfer station and wrecking/salvage yard. Other "CBD" advantages include the following: (1) removes the off-site parking requirements to allow flexibility in developing shared parking facilities to serve multiple parking needs, (2) eliminates building setbacks to allow zero-lot setbacks in character with traditional downtown development and that is compatible with the trends in loft/apartment uses, and (3) eliminates height restrictions to allow higher intensity use that reinforces the viability and liveliness of the urban area.

The Wichita Transit Operations Center, the fuel outlet, and the parking lot for the office building north of Waterman have been developed within the past 5 to 10 years. The rest of this area consists of older structures. Some are fully utilized by existing businesses, but some appear to have vacancies. New and redevelopment trends in the vicinity include the Old Town area to the north, the residential loft and arts district activity to the west of the railroad tracks, and the proposed Sedgwick County area site to the northwest.

Recommended Action: The "CBD" zoning district offers the largest range of uses to accommodate the continued use of the area for industrial and commercial type uses, but to encourage urban mixed use redevelopment with an increasing component of retail catering to the public and residential use. Based on these factors and the information available prior to the public hearing, staff recommends approval of "CBD" zoning for the proposed area.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The area is zoned "LI" Limited Industrial and includes warehousing, manufacturing, construction sales and service businesses, outdoor storage, some retail, a fuel outlet, and a parking lot for an office. A small portion of the proposed rezoning is within the 500-foot environs of the national historic district for the Rock Island Depot. The property to the west of the railroad right-of-way (included within the DR2005-00023 case under review for "CBD") is zoned "LI" and "CBD" and is a row of historic warehouses with retail, construction sales and service, manufacturing uses and with some recent conversions to art studios and residential lofts. The property north of Waterman (included within the DR2005-00024 case under review for "CBD") is zoned "LI" and includes the Cox Communications office complex, the old Rock Island Depot with restaurant use, and a variety of other uses similar to the proposed rezoning area included within DR2005-00033. The area to the east of Washington is zoned "LI" and is occupied by a variety of residential, office, commercial service and industrial uses. Kellogg borders the tract on the south. The property south of Kellogg is used in manufacturing or other industrial type uses.
2. The suitability of the subject property for the uses to which it has been restricted: The current zoning prohibits residential use. If the whole area were rezoned, probably more uses would seek to mix residential/commercial use with the existing mix of uses in a manner similar to that occurring on the property to the west of the railroad right-of-way.
3. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: The relative gain is to both the property owners who seek to redevelop their property and to the city from redevelopment of a part of the urban core. Some businesses might become nonconforming.
4. Extent to which removal of the restrictions will detrimentally affect nearby property: Certain industrial and manufacturing uses would no longer be permitted and would become nonconforming.
5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The proposed amendments support the following Comprehensive Plan's Goals/Objectives/Strategies: **Goal II Land Use Residential/Objective A: Encourage residential redevelopment...that maximizes the public investment in existing and planned facilities and services/Strategy A1. Use...zoning as tool to promote mixed-use development, higher density residential environments and appropriate buffering. AND A6. Encourage the concentration of multi-family residential and mixed-use commercial development to activity centers within the central Wichita area...locations can be priority areas for financial incentives, beautification and amenity initiatives,...based on opportunities for new residential/commercial development.** The rezoning enables this to occur. The property is within the Downtown Regional Center of the 2030 Wichita Functional Land Use Guide.
6. Impact of the proposed development on community facilities: Since "CBD" does not require on-site parking, there could be pressure to develop shared surface parking lots or parking structures.



MOTION: To approve subject to staff recommendation.

WARNER moved, **JOHNSON** seconded.

MOTION CARRIED 9-0-1. (DUNLAP abstains conflict of interest).

7. **Case No.: CON2005-50** – City of Wichita c/o John Philbrick (applicant); Benchmark Land surveying c/o Chad Abbott (agent) Request Conditional Use for a Utility, Major on property zoned “GC” General Commercial on property described as;

Part of Lot 1, East Substation Addition, Wichita, Sedgwick County, Kansas, described as follows: Commencing at the Northwest Corner of said Lot 1 (the North line of NW 1/4 of Section 31, Township 27 South, Range 2 East of the 6th P.M., Sedgwick County, Kansas, having an assumed bearing of N 90 degrees 00'00" E); thence S 00 degrees 20'38" W (measured), S 00 degrees 21'00" W (platted), along the West line of said Lot 1, for a distance of 453.22 feet to a point on the North line of a 30' Sanitary Sewer Easement; thence N 68 degrees 23'55" E, along said North line for a distance of 581.32 feet to the point of beginning; thence N 29 degrees 33'55" W, a distance of 138.00 feet; thence N 00 degrees 00'00" E, a distance of 150.00 feet to a point of the North line of said Lot 1; thence N 90 degrees 00'00" E, along said North line, a distance of 188.23 feet to a point on a curve to the left, said curve having a radius of 75.00 feet, a chord distance of 131.73 feet and a chord bearing of S 34 degrees 02'15"E; thence S 05 degrees 27'36"E, a distance of 68.29 feet to a point on the North line of said 30' Sanitary Sewer Easement; thence S 68 degrees 23'55" W, along the North line of said Easement, a distance of 222.25 feet to the Point of Beginning. Generally located On Osie Circle, south of Harry and west Gouverneur.

BACKGROUND: The applicant is requesting a Conditional Use to permit a “utility, major” which would allow the installation of a pump station on 1.13 acres, generally located south of Harry and Gouverneur, on the dead end of Osie. The application area is zoned GC, and is surrounded to the south, east, and west by other city owned land also zoned GC and currently vacant. North of the site are GC zoned properties used for self-storage, warehousing, and various retail/commercial uses. The pump station site will include a 107 by 44-foot building (see the attached site plan).

The *Wichita-Sedgwick County Unified Zoning Code* defines a “utility, major” as a service similar to services and facilities of agencies that provide the general public with electricity, gas, heat, steam, communication, rail transportation, water, sewage collection or other similar services that exceed 150 cubic feet in size and six feet in height that might generate discernable noise, odor or vibration in a residential district. The code permits a major utility as a Conditional Use in the GC district.

CASE HISTORY: None

ADJACENT ZONING AND LAND USE:

NORTH:	GC	Self-storage, warehousing, retail
SOUTH:	GC	Vacant, I-35
EAST:	GC	Vacant
WEST:	GC	Vacant

PUBLIC SERVICES: The site is located at the cul-de-sac termination of Osie, a currently unpaved portion with an 80-foot right-of-way. All normal services are available at the site.

CONFORMANCE TO PLANS/POLICIES: The Wichita Functional Land Use Guide identifies this site as appropriate for Major Institutional development. The Comprehensive Plan contains location criterion recommending that utility facilities with significant noise, odor and other nuisance elements should be located away from residential areas.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to development of the site in substantial compliance with the approved site plan.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: GC zoning surrounds the application area. Nearby uses include self-storage, warehousing, and retail/commercial uses.
2. The suitability of the subject property for the uses to which it has been restricted: The site could be developed as zoned without the Conditional Use.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The installation should not detrimentally impact nearby properties.
4. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: Denial would force the applicant to find another location. The water booster pump station is necessary to provide infrastructure support to the local community.
5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The Comprehensive Plan contains location criterion recommending that utility facilities with significant noise, odor and other nuisance elements should be located away from residential areas. This site is reasonably remote from residences.
6. Impact of the proposed development on community facilities: None identified.

MITCHELL Will Gouverneur and Osie paved as a condition of the approval of this Conditional Use?

MCNEELY That was not listed a condition of approval, and paving will generally be a part of platting.

MOTION: To approve subject to staff recommendation and add the paving requirement.

MITCHELL moved, DUNLAP seconded.

MOTION CARRIED 9-0-1. (DUNLAP abstains conflict of interest).

8. **Case No.: CON2005-51** – Madeline Akers-Woods (property owner/applicant), Youth Horizons (Earnest Alexander) / Baughman Company P.A. (Russ Ewy) Request Sedgwick County Conditional Use for Group Residence, Limited on property zoned "RR" Rural Residential on property described as;

The North 1/2 of the SE 1/4 of Section 12, Township 25 South, Range 1 East of the 6th P.M., Sedgwick County, Kansas, except that part taken for road. Generally located West of Woodlawn and 1/2 mile north of 109th Street North.

BACKGROUND: The application area is 20 acres zoned RR Rural Residential located west of 63rd Street East (Woodlawn), approximately 2,300 feet north of 109th Street North. The applicant is seeking a Conditional Use to permit a "group residence" for up to eight boys who meet the definition of "children in need of care." Children in need of care are children who have been removed from their homes due to circumstances not of their own making. These children are not delinquents, and have not been placed in another residential setting by the courts due to violations they have committed. For whatever reason, the intended residents of this project have been removed from the care of their parents or guardians, and they cannot be quickly returned to their original residence. Therefore the request is not for a "correctional placement residence" but is for a "group residence, limited." Youth Horizons is the entity that will operate the home. They expect to purchase the 20 acres and construct a new home for up to eight boys at this location. The age range of children expected to be cared for at a residence like this is typically eight to 18.

The "Unified Zoning Code" permits up to five unrelated individuals to live in a single residence as a "family." Individuals living together in numbers greater than five are classified as "group residence, limited" six to 15 unrelated individuals to reside in a single home.

The site plan submitted with the application depicts a house, barn, a lagoon and three unidentified structures. Access is to 63rd Street East (Woodlawn), which is a sand and gravel road.

Surrounding properties are zoned RR Rural Residential and are mainly farmsteads and large agricultural or residential tracts.

CASE HISTORY: None

ADJACENT ZONING AND LAND USE:

NORTH: RR Rural Residential; farmstead
SOUTH: RR Rural Residential; agricultural
EAST: RR Rural Residential; agricultural
WEST: RR Rural Residential; agricultural

PUBLIC SERVICES: On-site services will be used, as publicly supplied sewer and water are not available.

CONFORMANCE TO PLANS/POLICIES: The Comprehensive Plan's "2030 Urban Growth Areas Map" depicts this site as appropriate for "rural" uses. Rural areas are primarily intended for agricultural uses, resource based uses and other non-agricultural uses having no impact greater than typical agricultural uses, and do not require publicly supplied services. This site is outside of any projected urban growth boundaries.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to the following conditions:

1. In addition to uses permitted by right in the RR Rural Residential district, the application area shall be approved for a "group residence, limited" use for up to eight children plus seven staff members. At least one supervisor employed by the agency operating the residence must be present at the home at all times when children are present at the home.
2. The site shall be developed in substantial conformance with the approved site plan, and in conformance with applicable Wichita-Sedgwick County Unified Zoning Code requirements dealing with "group residence, limited" uses, except the number of resident children shall be limited to eight.
3. The applicant shall obtain all applicable permits required to legally operate the requested use prior to commencing "group residence" activities.
4. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in Article VIII of the Unified Zoning Code, may, with the concurrence of the Planning Director, declare the Conditional Use null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: Surrounding properties are all zoned RR Rural Residential and used for agriculture and farmsteads. This is a rural area.
2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned RR Rural Residential which permits a rather limited range of uses which are primarily residential, agricultural and institutional uses typically found in low density residential settings. The site could be used as currently zoned.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Approval of the request subject to the recommended conditions should limit anticipated negative affects to nearby properties.
4. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: Approval would permit another location for placement of children in need of care. Denial would force the applicant to find another location and delay the project. The limitation on the number of children should protect the public's health, safety and welfare.
5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The plan does not contain policies specific to this request however, the proposed 20-acre site is consistent with the property's "rural" designation, and large lot residential uses found in rural areas.
6. Impact of the proposed development on community facilities: The proposed use should not impact community facilities to any greater degree than individual residences located on 5-acre lots would. The 20-acre site could be platted into at least four five-acre home sites, which could generate up to 40 daily vehicle trips.

RUSS EWY, BAUGHMAN COMPANY, 315 ELLIS, WICHITA, KS 67211 While this slide is up, Dale had mentioned that the purchase was for the 20 acres. The 20 acres is simply the application area. This is where we are looking to limit this Conditional Use Permit. The purchase of the property is this entire 80 acres. However there will be no substantial alterations of the use of the remaining 60 acres. We have a PowerPoint to present, and the handout is a hard copy of the PowerPoint. Any person driving up and down Woodlawn would see this home and not be able to distinguish it from any other residential use out here.

I have seen many of the e-mails you have at your stations, talking about zoning, juvenile delinquency and talking about rehabilitation services. I would strongly state for the record that is not what we are discussing here today. This is a facility that will act more to **dissuade** those community needs, juvenile delinquency, truancy, drug and alcohol dependency, things of that nature but offering a service to the community that is sorely needed. There are people here that will speak to that much more eloquently than I can.

One of the only things of concerns that seemed relevant talking with staff was: who are these people; who is doing this thing; who is running this; who is building this? Youth Horizons has been serving the Wichita area for over 30 years. Youth Horizons is dedicated to serving the needs of at-risk young people and their families. All of Youth Horizons' programs seek to give young people the skills they need to become productive members of our community. Youth Horizons emphasizes healthy decision-

making, academics and social skills. Youth Horizons was taken over by Jeff Wenzel and internationally renowned gospel singer Earnest Alexander in 1986.

This is an existing farmstead that is very dilapidated. This project will redevelop this farm site and clean it up. As you drive by this property there is a considerable amount of hedge and vegetation preventing a lot with what is a very beautiful home from being exposed to Woodlawn. It is a very isolated site, and it is a site that makes so much sense in so many different ways.

ERNEST ALEXANDER, YOUTH HORIZONS, 1601 E. DOUGLAS, WICHITA, KS 67211 When I was growing up in the state of Connecticut one of the things I always dreamed about was the privilege of living on a farm. I am very much like the kids that we serve. Most of them are fatherless; live below the poverty level with single-parent homes. I grew up in a situation like that. After opening this group home that we have run for the last nine years in the City I think one of the worse things is the fact that the kids have too much time on their hands, and not enough to do. We do not take sexual offenders, physically aggressive kids, or children who do drugs. The children we take are children that people throw away. One family has offered to help us buy land, and another family has offered to build the house because they believe in what we are talking about.

ALDRICH The age range of the children will be between the ages of 8 and 18, and some of them will have drivers license. Is there going to be adequate parking and will you have any type of curfews set up?

ALEXANDER It is 24-7 supervision. Everybody gets up at a certain time and goes to bed at a certain time.

ALDRICH So they will not have free rein?

ALEXANDER All of their time is supervised, unless they go home with their parents. One of the letters addressed worrying about parents. Unfortunately most of the kids we serve don't have parents who care so worrying about them littering property is not an issue. As far as drivers' licenses are concerned, we are committed to try and equip the kids to leave our facility and go out into the world, and take care of themselves and break the cycle of living in the welfare system. We take them as young as 8, but coming into the house as old as 16 but they can stay until 18.

DUNLAP Where will they attend school?

ALEXANDER We were sending them to Love Box Company because they had a small school, but as you know, they have sold recently. So we may have to educate them there or send them to Valley Center.

KAPLAN I represent a number of residences both in the notice area and some and some outside the notice area. I do not represent all of the folks that are here today but I do have a number of them. The people I have chosen to represent are responsible, rationale and sympathize with the cause that this gentlemen presents. We know nothing about the youths.

I spoke with Mr. Ewy and asked for a meeting with the gentlemen so that we could get some questions answered; so we could propose conditions, or additional criteria that we might like to see in a Conditional Use. The request was declined. I was told that certainly they would host a meeting, and they would meet with my folks but only after this meeting. After the Conditional Use is approved, it does me very little good to suggest conditions.

Basically I am asking for a two-week deferral. I think we can come to accommodation. I do not think that this application is one that at least a number of people out here that have come to me for representation are necessarily going to oppose.

Mr. Miller was not given a lot of information, and consequently his staff report could only reflect that which he was told. But statements that these children for one reason or another have been temporarily removed from their homes, that does not convey anything to anybody. Where is the oversight? Is this SRS? Are these children placed here by the County? Are they voluntarily put there by parents or guardians? Who places the children in the facility? Who has the oversight for the facility? We will not have access to juvenile records, and we are not going to be able to determine, we assume this gentlemen says, "I take them a face value." We are not going to be able to verify anything without appropriate conditions. We want to come back in two weeks and suggest conditions that will arise if they do from our meeting. We do have questions about the parents and persons in the neighborhood.

CHRIS BOHM, 6201 Briar Rose Lane I did meet with Bob and some other residences there. On these 20 acres, is that the only one planned for the 80 acres total or would it come in pieces later? Could a facility be moved further back from the road or would there be a reason for that? Will it be gated and have security fencing and is there a need for that? Is there going to be a limitation on livestock? I think there were 7 staff members proposed for 8 boys, we didn't know if that was rotational or 7 on site all of the time. To whom do we report if we feel there is a violation of the Conditional Use?

DUNLAP Your address is it out in this neighborhood?

BOHM I am 2 ½ miles south of this facility. So I am not in the notification district.

JOHN BENEKE, 11152 N. WOODLAWN, VALLEY CENTER, KS 67147 I live across the road from the proposed rezoning. I talked with a number of people in the area adjoining the property, people along the bus routes, neighbors within 1-2 miles and some outside of the notification area. Everyone feels they are affected by this decision. Basically what we feel is the proposed zoning change at this property will have a negative affect on the neighbors and the surrounding area. Affected and concerned citizens reach beyond the few that were required to receive the hearing letter.

This type of zoning change will have a negative affect financially to property owners. We have spent millions of dollars to purchase this land, and build houses in a rural area away from the City and its problems. Many people seek this quite life, and that is what maintains our property values. The zoning change would reduce the marketability and the value of our property possibly by one-half. If a buyer had a chose to look at two identical properties but one has to disclose this zoning, they won't even consider it.

We consider the potential of this type of housing to increase criminal activity in the area. We know every vehicle that drives down this road and alert each other when someone is around that we don't recognize. This is how they found the meth lab on the proposed property a few months back. We protect each other by watching out for each other. By allowing people to move in that don't have the financial or personal interest in the area opens the door for problems. There may be people that may move into this property that are not criminals but they may become that way. In general, I don't believe a rural area is a good place for a displaced kid to live. We will file the required protest petitions within the 14-day time frame if MAPC allows this rezoning.

JOLENE HOLLOWAY, 10400 N. Oliver, VALLEY CENTER, KS 67147 We don't want to see the "RR" Rural Residential that has always been there to have the zone change or have the Conditional Use out here. My entire family has farmed this property, and we worry that if it is changed then it might trickle down, and we want to see this land stay the way it is. Youth Horizons is a good program and I admire what Mr. Alexander does.

LOYCE MAY, 11411 N. WOODLAWN, VALLEY CENTER, KS 67147 I will be sitting directly north of this facility. I do admire what this gentleman is doing for these kids, and we are a long ways from town. I have three children under 10, and they all walk to Woodlawn for the bus. I worry about a facility like this because I don't know who they are, and there is nobody out there, and there are no other neighbors out there to call. It will be going in right in next to my house and they say they will build one residence for 8 children. Eighty acres is huge. They could help more kids than that, and they should be closer to town. I will be wondering all the time if there is somebody there and it is dark out there. These children whom I don't know will be riding the bus with my children and we don't know who they are. If our property is damaged who will be responsible for that? This area is a good spot for hunting. They hunt deer and other animals, and at least my kids understand the danger in that. We enjoy the seclusion and privacy that is why we moved out there.

EDDY MAY, 11411 N. WOODLAWN, VALLEY CENTER, KS 67147 I would like to talk about the security factors out there. I am retired from the Sedgwick County Police Department. Help can be 45 minutes away at any given time in the County. Not because it is their fault. It is because they are stretched so short across the County, and they have to cover a lot of areas. We don't know what problems these kids will be. He says that he don't take sex offenders. How do we know a 10 year old is going to be a sex offender? We don't. We don't know his background. They are saying that some of that stuff is inside them from their parents, and how they were treated back when they were 3-4 years old, and now they are 18 and that stuff comes out. I really feel that a housing addition like this is a good thing but it needs to be in an area where it can be policed properly, where they have adequate services, and people that can get out there if one of these children gets hurt out there. The ambulance is a long way away.

ALDRICH What happens if one of your children gets hurt?

MAY It happened recently. My three-year-old daughter had seizures this summer, and I drove like a crazy man all the way to St. Francis because I could beat the ambulance getting there.

MARNELL You have children that are under 10 years old?

MAY I have five children, they start at 3 and go to 20 years old.

MARNELL Can you assure us that none of those will be sex offenders as they grow up?

MAY No, I cannot. But I can say that they have not been sexually or mentally abused by myself or anybody else.

EWY Mr. Kaplan began discussion on the opposition with the request for a deferral. He is correct, as I mentioned to him, as well as to his secretary yesterday, there are reasons that we would like to see this process pushed forward. We want to keep this on the timeline that we established in October. There are certain issues with the transaction and sale of this property that needs to occur sooner than later. We already know, although Mr. Kaplan believes that any and all needed conditions need to be ratified by this Board, I think it is pretty clear that we would expect someone within the notification to file a protest petition. Therefore this will go to the County Commission for final approval.

ALEXANDER The reason that I said no to a meeting with the public prior to the MAPC was that I thought we could address whatever concerns you have here at this meeting, and if then you were not satisfied then we would do whatever was necessary. I don't blame any of you for your responses. We have done this program for nine years and have yet to address any of the problems that have come up.

SHERMAN The maximum number of children at the facility will be?

ALEXANDER We decided that 8 would be the maximum.

SHERMAN Regardless of how the building is constructed?

ALEXANDER Right, no more than 8 children.

SHERMAN Don't most farm families traditionally have large families?

ALEXANDER I grew up in the City of Wichita in a small house. There were seven of us and that is why we wanted a lot of room so the kids could have some space.

SHERMAN I have a question about supervision, 24 hours; is it constant?

ALEXANDER Seven days a week, 24 hours a day.

SHERMAN Someone is always there. Are these kids under some kind of legal guardianship with you?

ALEXANDER Some of the children come from the State of Kansas. Some of them are private placements. You can check us out and ask questions about us.

SHERMAN When they come to your location and live with you they are under your guardianship? You are totally responsible for their actions? You have legal recourse?

ALEXANDER We have lots of insurance. You have to have insurance as far as taking care of them. If the child is a ward of the State, the State ultimately has more authority than we have. We are responsible for taking care of them seven days a week, 24 hours a day. But the State can tell us what we can and can't do if that child is a ward of the State. If the child is a private placement then those parents have authority to say to us you can't or can do that.

SHERMAN When you talk about sending the children to Valley Center schools, would you have to make arrangements for the bus to come out there?

ALEXANDER We would go to Valley Center schools and tell them what the plan is before anything happens. There is no sense in us going to Valley Center schools if we are not going to have the privilege of buying this land and building the home.

ALDRICH Are you in agreement with all of staff recommendations?

ALEXANDER Yes.

MARNELL In your first presentation you described who the residences would be was commendable, but then the questions that came from the audience went in a different direction. I believe I heard from Mr. Kaplan that if some of these children were from SRS that they may in fact be very troubled youth, and not just simply from a family where they are removed for some other reason? How could anybody verify that given the court systems and the protections given to juveniles to know that it is really is what you say it is going to be, as opposed to something different?

ALEXANDER As far as we are concerned, that is Youth Horizons, they have to tell us whatever they have in the record on that child, which helps us to determine whether or not we will take the child. Plus we also pay for the evaluations, sociological and emotional evaluations, to help us to determine if we can help the child. Now the State could take the chance of not telling us everything, the State would then be liable.

DUNLAP Mr. Kaplan has asked to have meeting with you before we make a decision, and a deferral for two weeks, is that acceptable?

EWY There again, several different points to make about that. First and foremost we would like to see the process moved forward based on our clients needs. Second this will go to the County Commission. We will have 30 days in which to arrange a meeting. Having seen the e-mail and the testimony I would ask the question, what would two weeks buy us other than a whole room full of other people 3-miles out?

DUNLAP I think that is a valid point because I know there are people here today that have gone home and we have not had a chance to hear them. I live about two miles away and didn't know anything about it until I got the packet.

EWY There is a public forum at the County Commission meeting.

DUNLAP There are also meeting facilities available in the neighborhood where we could met, and I would strongly recommend that you would consider that two week deferral so you do defray some of the opposition you will have.

WARNER You made a serious mistake by not meeting with this people before this meeting. I think you could have cleared a lot of things up because this venue is not setup to where you can have a discussion with the opposition and clear the air.

JOHNSON Mr. Kaplan, I am curious Russ is talking about it being 30 days before it goes in front of the County Commissioners. You will have the right to speak there, and if a motion were made to approve it with the understanding there would be a meeting between you and the neighbors before it goes to County Commission, would you be all right with that?

KAPLAN Assuming that I am asked to file an appeal, this is a final decision unless they do appeal. The problem is if we go to the County Commission and we do have other conditions, I think it is more probably than not that the County will send it back to you before they make a decision.

JOHNSON They have said protests are going to be filed.

MILLER Protest don't count until after you have made a decision.

SCHLEGEL I think the BOCC would prefer that this be the public hearing for this and not have to have a big public hearing with a lot of testimony in front of them. On their behalf I would urge you to defer this item until they can meet with the neighbors.

MOTION: Defer for two weeks and direct the applicant to have a meeting with the opposition and the neighbors and the MAPD staff in attendance to take notes.

HILLMAN moved, **DUNLAP** seconded.

JOHNSON Is the public hearing closed or still opened?

SCHLEGEL You are going to want to hear the results of that meeting at your next MAPC meeting.

JOHNSON Can staff report that to us?

SCHLEGEL We could if that would be sufficient, then you would need to reopen the public hearing.

MOTION CARRIED (10-1). (DOWNING opposed)

9. **Case No.: CON2005-48** – David and Sharon Dore Request Sedgwick County Conditional Use for a temporary accessory manufactured home dwelling on property zoned “RR” Rural Residential on property described as; The East Half of the Northeast Quarter of the Northwest Quarter of Section 1, Township 25 South, Range 1 East of the 6th P.M., Sedgwick County, Kansas, except that part platted as Dore Addition, and except the North 50 feet for road. Generally located South of 125th Street North and midway between 47th Street East and 63rd Street East.

BACKGROUND: The applicants are seeking a Conditional Use to permit a temporary, accessory manufactured home dwelling in the County. The 12.04-acre unplatted tract is zoned “RR” Rural Residential. The applicants have stated that their circumstances (limited income and poor health) constitute a hardship (see attached “Hardship”) that can be monitored and alleviated by onsite care from their adult child. The applicants live in an existing single-story residence (approximately 1,550-square feet, built in 1991) on the site. The applicants will continue to live in the existing residence while their adult child and its family will live in an approximately 978-square foot manufactured home; the temporary, accessory manufactured home dwelling. Per Art.III, Sec.III-D.6.I(3) (see attached), of the Unified Zoning Code (UZC) a temporary, accessory manufacture home dwelling is a Conditional Use in the County. The “RR” zoning district is intended for application in unincorporated Sedgwick County.

The site is located on 125th Street North, just south of the Sedgwick County – Harvey County line in an area that can be characterized as rural. Properties south, east and west of the site are zoned “RR”, with scattered single-family residences on large tracts or large lots breaking up agricultural fields. Besides the applicants’ residence there are four other single-family residences on 125th, between 47th & 63rd Streets East. The site’s nearest neighbor is approximately 660-feet west of it. Properties north of the site are in Harvey County and are agricultural fields.

The applicant has provided a site plan that shows the location of the existing residence, a water well, a lagoon and the proposed temporary, accessory manufactured home dwelling.

CASE HISTORY: None

ADJACENT ZONING AND LAND USE:

NORTH: Harvey County	agricultural fields
SOUTH: “RR”	agricultural fields
EAST: “RR”	farmstead
WEST: “RR”	agricultural fields and farmstead

PUBLIC SERVICES: The property is located on 125th Street North, a dirt/sand/gravel Grant Township road with a 50-foot half-street right of way. The property has a water well and a lagoon for sewage, with no public water or sewer or Rural Water available. All other utilities appear to be available.

CONFORMANCE TO PLANS/POLICIES: *The Comprehensive Plan’s Wichita and Small Cities 2030 Urban Growth Area Map* identifies this area as a “Rural Functional Land Use Category”. This category encompasses land outside the 2030 urban growth area of Wichita and the small cities of Sedgwick County. The category’s intended uses are agricultural, rural based uses that are no more offensive than those agricultural uses commonly found in the county and predominately larger lot residential exurban subdivisions with provisions for individual or community water and sewer services.

The UZC, Art.III, Sec.III-D.6.I(3) lists temporary, accessory manufactured home dwellings in the County as a Conditional Use subject to the following conditions and requirements: (a) The location of the manufactured home shall conform to all setback requirements of the district in which located; (b) If the property is not served by a public water supply and municipal type sewer system, the minimum lot size shall be determined by the County Health Department; (c) The unit shall comply with all of the standards of Art.III, Secs.III-D.6.I(1) and III-D.6.I(2); (d) The applicant shall show due cause that hardship exists and that the hardship cannot reasonably be alleviated without the granting of the Conditional Use; and (e) The Planning Commission shall determine a reasonable time limit for each individual case. The manufactured home shall be removed from the property within 90 days after any change in circumstances used as a basis for the Conditional Use.

The UZC defines a “manufactured home” as one or more mobile components constructed to meet the 42 U.S.C. 5403 HUD Code, providing all accommodations necessary to be a dwelling unit, and connected to all utilities in conformance with a applicable regulations.

RECOMMENDATION: Planning staff finds that the application meets the conditions of the UZC Art.III, Sec. III-D.6.I(3). Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to the following conditions.

1. The applicants shall obtain all applicable permits including, but not limited to: building, health and zoning. Specifically, the requirements of Art.III, Sec.III-D.6.I(3) of the Unified Zoning Code shall be met.
2. The manufactured home shall meet the post-1976 42 U.S.C. 5403 HUD Code.

3. The accessory home shall remain on the site as an accessory dwelling for the applicants' child and the child's family as long as applicants reside on the site. The applicant shall report to the County Code Enforcement Office on a yearly basis, every January, the status of the occupancy of this manufactured home.
4. The manufactured home shall be removed from the property within 90 days after any change in the circumstances used as a basis for the Conditional Use.
5. Development and maintenance of the site shall be in conformance with the approved site plan.
6. If operations have not begun within one year of approval, or if the Zoning Administrator finds that there is a violation of any of the conditions of this Conditional Use, the Zoning Administrator may, with the concurrence of the Planning Director, declare the Conditional Use null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the surrounding area: All property surrounding the application area is zoned "RR", or in rural Harvey County, and is characterized by agricultural fields broken by large tract single-family residences or farmsteads.
2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned "RR", with its intended uses being agricultural, rural based uses that are no more offensive than those agricultural uses commonly found in the county and predominately larger lot residential exurban subdivisions with provisions for individual or community water and sewer services. The site could continue to be used without the Conditional Use.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Provided that the proposed manufactured home meets all applicable codes, and because of the temporary nature of the requested Conditional Use, the proposed accessory use should have no affect on the surrounding properties.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The requested Conditional Use is in conformance with *The Wichita-Sedgwick County Comprehensive Plan* and the UZC, Art.III, Sec.III-D.6.I(3) provisions for accessory manufactured home dwellings in the County.
5. Impact of the proposed development on community facilities: None identified.

MOTION: To approve subject to Staff Recommendation.

MITCHELL moved, **DOWNING** seconded the motion, and it carried (12-0).

10. **Case No.: ZON2005-50** – Dillon Real Estate, Inc., c/o Richard Russell and Kenneth Whitmer and Said & Kathy Miremadi Request Zone change from "SF-5" Single-family Residential, "GO" General Office, and "TF-3" Two-family Residential to "LC" Limited Commercial on property described as;

Lots 6 - 8, Block A, Loma-Linda Gardens, an Addition to Wichita, Sedgwick County, Kansas; together with that part of Lot 1, Dillon 10th Addition, Wichita, Sedgwick County, Kansas described as follows: Beginning at the southern-most southwest corner of said Lot 1; thence north along the most-west line of said Lot 1, 100 feet; thence east parallel with the south line of said Lot 1, 150 feet; thence south parallel with the southern-most west line of said Lot 1, 100 feet; thence west along the south line of said Lot 1, 150 feet to the point of beginning.

Generally located South of 31st Street South and west of Seneca Street, on the southeast side of Exposition Avenue and 32nd Street South.

BACKGROUND: The applicants' request "LC" Limited Commercial zoning on (west to east) Lots 8, 7, & 6, Block A, Loma-Linda Gardens Addition and a portion of Lot 1, Dillon 10th Addition. The Loma-Linda Gardens' lots are zoned, west to east, "TF-3" Duplex Residential and "SF-5" Single-family Residential. The western most of these lots, located on the northeast corner of Exposition Drive and 32nd Street South, is developed as a one-story duplex, built in 1970. The other two lots are developed as one-story single-family residences, built in 1963 and 1964. The Dillon 10th Addition lot is developed as part of the parking lot for the Dillon's grocery store (built 1984), which dominates (with the exception of one small free standing retail building) the southwest corner of the Seneca Avenue – 31st Street South intersection. The applicants propose the rezoning to allow for expansion of commercial uses on this corner. The rezoning would remove the last residential zoning in the Seneca – 32nd – Exposition – 31st square block, and make all property within the block "LC", except for an interior portion of the Dillon 10th Addition, which is zoned "GC" General Commercial.

South of the site, across 32nd Street South, zoned "SF-5", is a developed (mid to late 1950s) single-family residential subdivision. The eastern most lot on the south side of 32nd, with frontage on Seneca Avenue, is zoned "LC" and has a freestanding auto repair garage. Properties west of the site, across Exposition Drive, are zoned "SF-5" and "LC", with development including a church, single-family residences and a tavern. The properties north and east of the site are zoned "LC" and are developed as the Dillon's grocery store, its parking lot and a small free standing retail building.

CASE HISTORY: The subject properties are platted Lots 6, 7, & 8, Block A, Loma-Linda Gardens Addition and Lot 1, Dillon 10th Addition. The Loma-Linda Gardens Addition was recorded with the Register of Deeds September 14, 1955. The Dillon 10th Addition was recorded with the Register of Deeds August 16, 1984. Lots 4 & 5, Block A, Loma-Linda Gardens Addition were rezoned from "AA" Single-family Residential to "BB" Office, contingent on replatting, April 17, 1984. The replatted lots became part of Lot 1, Dillon 10th Addition.

ADJACENT ZONING AND LAND USE:

NORTH: "LC"

Dillon's grocery store

SOUTH: "SF-5", "LC"
EAST: "LC"
WEST: "SF-5", "LC"

single-family residences, auto repair
free standing retail
single-family residences, church, tavern

PUBLIC SERVICES: The properties are located along Exposition Drive & 32nd Street South, both paved, residential streets, with 60-foot of right-of-way. The 2030 Transportation Plan shows no change to the status of these streets. No street projects are included in the C.I.P. for the immediate area. No traffic counts or projections have been done for either of these streets, however the Seneca Avenue – 31st Street South intersection is a block northeast and traffic counts at that intersection are between 10,499 – 18,541 ADTs. All utilities are available to the site

CONFORMANCE TO PLANS/POLICIES: The Comprehensive Plan's 2030 *Wichita Functional Land Use Guide Map* indicates the appropriate type of development for the western portion of the site as "Urban Residential" and its eastern portion as "Local Commercial". The "Urban Residential" category reflects the full diversity of residential development densities and types typically found in a large urban municipality. The "Local Commercial" category's uses are local in their customer base and include commercial, office, personal services, medical, auto repair, grocery stores, florist shops, service stations, restaurants and on a limited presence basis mini-storage warehousing and small scale light manufacturing. The applicant's proposed rezoning essentially extends the abutting northern and eastern Dillon's site's "LC" zoning onto the last three, isolated single-family residences left in this block.

RECOMMENDATION: The zoning request is appropriate and offers redevelopment of isolated single-family lots, whose value as single-family residences has probably diminished over the years, partially due to their immediate proximity to the Dillon's grocery store and its parking. Staff is also proposing a Protective Overlay to buffer the remaining single-family residences in the immediate area and to tie the rezoned lots with the existing Dillon's grocery store development. Based upon information available prior to the public hearings, planning staff recommends that the request for "LC" zoning on Lots 8, 7, & 6, Block A, Loma-Linda Gardens Addition and Lot 1, Dillon 10th Addition be APPROVED, with the following provisions of PO #165.

- (1) Provide a restrictive covenant binding and tying Lots 6, 7, & 8, Block A, Loma-Linda Gardens Addition, to the Dillon 10th Addition. To be provided to Planning Staff for recording with the Register of Deeds, prior to the zoning case going to WCC for final action.
- (2) Dedication by separate instrument of complete access control along the site's 32nd Street South and Exposition Drive frontage. Dedicate cross lot access onto the site from the Dillon 10th Addition. To be provided to Planning Staff for recording with the Register of Deeds, prior to the zoning case going to WCC for final action.
- (3) Dedicate 2-feet of easement to add to the platted 8-foot easement located on the north lot lines of Lots 8, 7, & 6, and a portion of the east lot line of Lot 6, all in Block A, Loma-Linda Gardens Addition. To be provided to Planning Staff for recording with the Register of Deeds, prior to the zoning case going to WCC for final action.
- (4) Solid screening, a minimum of 6-feet in height, will be provided along the south and west sides of the site where adjacent to residential zoning.
- (5) Landscaping will be provided along the west and south sides of the site, where adjacent to residential zoning, per the Landscape Ordinance.
- (6) The platted 20-foot setback on the west side of Lot 1, Dillon 10th Addition and the platted 25-foot along the south side of Lot 1, Dillon 10th Addition will apply to the site's west and south sides, where the site is adjacent to "TF-3" or more restrictive zoning. Dedication to be provided to Planning Staff for recording with the Register of Deeds, prior to the zoning case going to WCC for final action.
- (7) Lighting will be per the Unified Zoning Code, including a maximum height of 14-feet for any pole lighting. Pole lights will be located behind the setbacks, as noted along the site's south and west sides.
- (8) Signage will be a monument type and per the "LC" zoning district with no portable signs. No building signs or signs mounted on roofs shall be on the west or south signs of any buildings on the site.
- (9) All utilities will be installed underground.
- (10) All trash receptacles will have solid screening and gating, per the Unified Zoning Code, (no chain link fencing with metal slats) around them.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: South and west of the site there are single-family subdivisions, zoned "SF-5", that were developed mostly in the mid to late 1950s, with some development in the 1960s through the 1970s. The tavern on an "LC" zoned lot northwest of the site was built in 1965. The Dillon's grocery store, zoned "LC", was built in 1984 and dominates the southwest corner of the Seneca Avenue – 31st Street South intersection. The duplex and the two single-family residences on lots that are proposed for the rezoning were built (1970, 1963 & 1964) before the Dillon's grocery store and are the only residential uses left within this block.
2. The suitability of the subject property for the uses to which it has been restricted: The properties could remain a duplex, two single-family residences and a parking lot as zoned. The residential uses are isolated and it is reasonable to have them phased out with the rezoning, as their location against the Dillon's development on their north and east sides and street frontage on their south and west sides has made them less attractive for residential use.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: A zone change from "TF-3", "SF-5" and "GO" to "LC" at the site, with the provisions of the "PO" should have a minimal effect on the character of the neighborhood. The continuation of Lot 1, Dillon 10th Addition's setbacks coupled with the solid screening and landscaping and dedication of complete access control onto the site will buffer the adjacent single-family residential development.

4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The requested zoning change is not totally in conformance with the Comprehensive Plan's *2030 Wichita Functional Land Use Guide Map*, but the three lots zoned "TF-3" and "SF-5" are isolated and are surrounded by commercial development and street right-of-way, thus making them less likely for investment for residential development than for commercial development.
5. Impact of the proposed development on community facilities: A zone change at the application area to "LC" with the provisions of the "PO" will permit redevelopment of the sites for a more appropriate use, which in turn could lead to investment on the properties. This zone change should not increase demands on community facilities.

BILL LONGNECKER The applicant and staff have agreed to the Protective Overlay with a few of minor revisions to a few of the provisions. On the requirement for dedications to be recorded by the Register of Deeds prior to the case going to Council, per provisions #1,2, & 3 of the Protective Overlay we have come to an agreement with the applicant that they will turn the dedications over to staff for processing and this will allow the case to move forward to WCC and we will publish the ordinance after the dedications have been received. On provision #4, strike out the word "solid". We are simply going to say that the screening will be per the Unified Zoning Code, which will allow the landscaping to equal the solid screening requirement. The applicant does not agree with the provision #8.

EWY On the issue of signage we understand that the zoning code allows for quite an extensive amount of building signage, we are simply asking for one 48 square-foot building sign to be permitted on the south elevation. This is a Dillon's store and they are expanding and what you would see will be their standard Dillon's script sign.

SCHLEGEL Are you stipulating to that then as condition of this approval?

EWY To be quite honest Kroger has not returned my phone calls the last three days so I don't know what their intentions are, they wanted something so I came up with the 48 square foot building sign.

MOTION: To approve subject to staff recommendation and include a 48 square foot building sign on the south elevation.

DUNLAP moved, **MCKAY** seconded.

MOTION CARRIED 10-0.

10. **Case No.: ZON2005-50** – Dillon Real Estate, Inc., c/o Richard Russell and Kenneth Whitmer and Said & Kathy Miremadi Request Zone change from "SF-5" Single-family Residential, "GO" General Office, and "TF-3" Two-family Residential to "LC" Limited Commercial on property described as;

Lots 6 - 8, Block A, Loma-Linda Gardens, an Addition to Wichita, Sedgwick County, Kansas; together with that part of Lot 1, Dillon 10th Addition, Wichita, Sedgwick County, Kansas described as follows: Beginning at the southern-most southwest corner of said Lot 1; thence north along the southern-most west line of said Lot 1, 100 feet; thence east parallel with the south line of said Lot 1, 150 feet; thence south parallel with the southern-most west line of said Lot 1, 100 feet; thence west along the south line of said Lot 1, 150 feet to the point of beginning.
Generally located South of 31st Street South and west of Seneca Street, on the southeast side of Exposition Avenue and 32nd Street South.

BACKGROUND: The applicants' request "LC" Limited Commercial zoning on (west to east) Lots 8, 7, & 6, Block A, Loma-Linda Gardens Addition and a portion of Lot 1, Dillon 10th Addition. The Loma-Linda Gardens' lots are zoned, west to east, "TF-3" Duplex Residential and "SF-5" Single-family Residential. The western most of these lots, located on the northeast corner of Exposition Drive and 32nd Street South, is developed as a one-story duplex, built in 1970. The other two lots are developed as one-story single-family residences, built in 1963 and 1964. The Dillon 10th Addition lot is developed as part of the parking lot for the Dillon's grocery store (built 1984), which dominates (with the exception of one small free standing retail building) the southwest corner of the Seneca Avenue – 31st Street South intersection. The applicants propose the rezoning to allow for expansion of commercial uses on this corner. The rezoning would remove the last residential zoning in the Seneca – 32nd – Exposition – 31st square block, and make all property within the block "LC", except for an interior portion of the Dillon 10th Addition, which is zoned "GC" General Commercial.

South of the site, across 32nd Street South, zoned "SF-5", is a developed (mid to late 1950s) single-family residential subdivision. The eastern most lot on the south side of 32nd, with frontage on Seneca Avenue, is zoned "LC" and has a freestanding auto repair garage. Properties west of the site, across Exposition Drive, are zoned "SF-5" and "LC", with development including a church, single-family residences and a tavern. The properties north and east of the site are zoned "LC" and are developed as the Dillon's grocery store, its parking lot and a small free standing retail building.

CASE HISTORY: The subject properties are platted Lots 6, 7, & 8, Block A, Loma-Linda Gardens Addition and Lot 1, Dillon 10th Addition. The Loma-Linda Gardens Addition was recorded with the Register of Deeds September 14, 1955. The Dillon 10th Addition was recorded with the Register of Deeds August 16, 1984. Lots 4 & 5, Block A, Loma-Linda Gardens Addition were rezoned from "AA" Single-family Residential to "BB" Office, contingent on replatting, April 17, 1984. The replatted lots became part of Lot 1, Dillon 10th Addition.

ADJACENT ZONING AND LAND USE:

NORTH: "LC"
SOUTH: "SF-5", "LC"

Dillon's grocery store
single-family residences, auto repair

EAST: "LC"
WEST: "SF-5", "LC"

free standing retail
single-family residences, church, tavern

PUBLIC SERVICES: The properties are located along Exposition Drive & 32nd Street South, both paved, residential streets, with 60-foot of right-of-way. The 2030 Transportation Plan shows no change to the status of these streets. No street projects are included in the C.I.P. for the immediate area. No traffic counts or projections have been done for either of these streets, however the Seneca Avenue – 31st Street South intersection is a block northeast and traffic counts at that intersection are between 10,499 – 18,541 ADTs. All utilities are available to the site

CONFORMANCE TO PLANS/POLICIES: The Comprehensive Plan's 2030 *Wichita Functional Land Use Guide Map* indicates the appropriate type of development for the western portion of the site as "Urban Residential" and its eastern portion as "Local Commercial". The "Urban Residential" category reflects the full diversity of residential development densities and types typically found in a large urban municipality. The "Local Commercial" category's uses are local in their customer base and include commercial, office, personal services, medical, auto repair, grocery stores, florist shops, service stations, restaurants and on a limited presence basis mini-storage warehousing and small scale light manufacturing. The applicant's proposed rezoning essentially extends the abutting northern and eastern Dillon's site's "LC" zoning onto the last three, isolated single-family residences left in this block.

RECOMMENDATION: The zoning request is appropriate and offers redevelopment of isolated single-family lots, whose value as single-family residences has probably diminished over the years, partially due to their immediate proximity to the Dillon's grocery store and its parking. Staff is also proposing a Protective Overlay to buffer the remaining single-family residences in the immediate area and to tie the rezoned lots with the existing Dillon's grocery store development. Based upon information available prior to the public hearings, planning staff recommends that the request for "LC" zoning on Lots 8, 7, & 6, Block A, Loma-Linda Gardens Addition and Lot 1, Dillon 10th Addition be APPROVED, with the following provisions of PO #164.

- 1) Provide a restrictive covenant binding and tying Lots 6, 7, & 8, Block A, Loma-Linda Gardens Addition, to the Dillon 10th Addition. To be provided to Planning Staff for recording with the Register of Deeds, prior to the zoning case going to WCC for final action.
- 2) Dedication by separate instrument of complete access control along the site's 32nd Street South and Exposition Drive frontage. Dedicate cross lot access onto the site from the Dillon 10th Addition. To be provided to Planning Staff for recording with the Register of Deeds, prior to the zoning case going to WCC for final action.
- 3) Dedicate 2-feet of easement to add to the platted 8-foot easement located on the north lot lines of Lots 8, 7, & 6, and a portion of the east lot line of Lot 6, all in Block A, Loma-Linda Gardens Addition. To be provided to Planning Staff for recording with the Register of Deeds, prior to the zoning case going to WCC for final action.
- 4) Solid screening, a minimum of 6-feet in height, will be provided along the south and west sides of the site where adjacent to residential zoning.
- 5) Landscaping will be provided along the west and south sides of the site, where adjacent to residential zoning, per the Landscape Ordinance.
- 6) The platted 20-foot setback on the west side of Lot 1, Dillon 10th Addition and the platted 25-foot along the south side of Lot 1, Dillon 10th Addition will apply to the site's west and south sides, where the site is adjacent to "TF-3" or more restrictive zoning. Dedication to be provided to Planning Staff for recording with the Register of Deeds, prior to the zoning case going to WCC for final action.
- 7) Lighting will be per the Unified Zoning Code, including a maximum height of 14-feet for any pole lighting. Pole lights will be located behind the setbacks, as noted along the site's south and west sides.
- 8) Signage will be a monument type and per the "LC" zoning district with no portable signs. No building signs or signs mounted on roofs shall be on the west or south signs of any buildings on the site.
- 9) All utilities will be installed underground.
- 10) (10)All trash receptacles will have solid screening and gating, per the Unified Zoning Code, (no chain link fencing with metal slats) around them.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: South and west of the site there are single-family subdivisions, zoned "SF-5", that were developed mostly in the mid to late 1950s, with some development in the 1960s through the 1970s. The tavern on an "LC" zoned lot northwest of the site was built in 1965. The Dillon's grocery store, zoned "LC", was built in 1984 and dominates the southwest corner of the Seneca Avenue – 31st Street South intersection. The duplex and the two single-family residences on lots that are proposed for the rezoning were built (1970, 1963 & 1964) before the Dillon's grocery store and are the only residential uses left within this block.
2. The suitability of the subject property for the uses to which it has been restricted: The properties could remain a duplex, two single-family residences and a parking lot as zoned. The residential uses are isolated and it is reasonable to have them phased out with the rezoning, as their location against the Dillon's development on their north and east sides and street frontage on their south and west sides has made them less attractive for residential use.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: A zone change from "TF-3", "SF-5" and "GO" to "LC" at the site, with the provisions of the "PO" should have a minimal effect on the character of the neighborhood. The continuation of Lot 1, Dillon 10th Addition's setbacks coupled with the solid screening and landscaping and dedication of complete access control onto the site will buffer the adjacent single-family residential development.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The requested zoning change is not totally in conformance with the Comprehensive Plan's 2030 *Wichita Functional*

Land Use Guide Map, but the three lots zoned "TF-3" and "SF-5" are isolated and are surrounded by commercial development and street right-of-way, thus making them less likely for investment for residential development than for commercial development.

5. Impact of the proposed development on community facilities: A zone change at the application area to "LC" with the provisions of the "PO" will permit redevelopment of the sites for a more appropriate use, which in turn could lead to investment on the properties. This zone change should not increase demands on community facilities.

BILL LONGNECKER The applicant has agreed to the Protective Overlay on page 3 of the Protective Overlay. We have come to an agreement with the applicant that they will turn the dedications over to staff for processing, and this will allow the case to move forward to WCC, and we will publish the ordinance after the dedications have been received.

On condition 4, strike out the word "solid" and we are simply going to say that the screening will be per the Unified Zoning Code. This will allow the landscaping to meet the solid screening requirement.

The applicant does not agree with the Condition #8.

EWY On the issue of signage we understand that the zoning code allows for quite an extensive amount of building signage. We are simply asking for one 48 square-foot building sign to be permitted on the south elevation. This is a Dillon's store, and they are expanding, and what you would see will be their standard Dillon's script sign.

SCHLEGEL Are you stipulating to that then as condition of this approval?

EWY To be quite honest Kroger has not returned my phone calls the last three days so I don't know what their intentions are. They wanted something so I came up with the 48 square foot building sign.

MOTION: To approve subject to staff recommendation and include a 48 square foot building sign on the south elevation.

DUNLAP moved, **MCKAY** seconded.

MOTION CARRIED 10-0.

11. **Case No.: ZON2005-35** – WRT Inc., c/o J.M. Thornberry (applicant); Robert Kaplan (agent) Request Sedgwick County Zone change from "RR" Rural Residential to "LI" Limited Industrial for indoor recycling processing of unsorted municipal waste on property described as;

All that part of the Northeast Quarter of the Southwest Quarter of Section 14, Township 26 South, Range 2 East of the 6th P.M. lying North of the right-of-way of the Missouri Pacific Railroad.

And

All that part of the Northwest Quarter of the Southwest Quarter Section 14, Township 26 South, Range 2 East of the 6th P.M. lying North of the right-of-way of the Missouri Pacific Railroad. Generally located on the east side of 127th Street East approximately 1/10 mile north of 55th Street North.

WARNER Are you going to request a deferment?

ROBERT KAPLAN, KAPLAN, MCMILLAN AND HARRIS, 430 N. MARKET, WICHITA, KS 67202-2074 No, I anticipated holding the public hearing, and I was going to request a deferral on your vote, subject to some legal issues that I am working with the County Legal Department that the zoning district being changed. There are a number of members of the public here today to speak, and I felt that you may want to take the evidence while they were here but I am going to request that you defer your vote because of some issues that were risen by County Legal, and I are working on.

WARNER If we defer our vote, and it comes back the following meeting, is there going to be new evidence? Is there going to be something new?

KAPLAN No, the issue is only going to involve the appropriate district to accommodate this use. If the district changes and because a less intensive district, then that will have a corresponding affect on the staff recommendation, I assume.

WARNER I am going to put this out to the Commission for your opinion on whether we want to move it up.

JOHNSON I would like to see the number of hands of the public that want to speak on this item. Secondly, if they are going to ask for a deferment, but surely there are a couple of you in the public that would know if you they would like to come back if we do decide to defer the vote or do you want to be heard today?

AUDIENCE We want to be heard today.

JOHNSON I want you to understand that if some other information comes about after the fact you may want to know that before you speak.

MITCHELL Of the people who held up their hand, that they are interested on speaking on this issue, how many of you might change your mind if the zoning issue is changed to permit this activity in that area?

AUDIENCE We do not want this operation in our neighborhood, we oppose this request and this operation.

MCKAY If they testify today, and we don't vote on it today, and we hear it in two weeks, will it still be an open public meeting and they can re-testify again?

SCHLEGEL Again, that is a decision that you are going to have to make, if anybody who testifies today will be putting that testimony on the public record, and it will be part of the record for this case. If you decide with the deferral that you are going to leave the public hearing open, and allow testimony at the second meeting, which this case would be heard, then they could come back and testify again if they chose to.

WARNER I think that is the only way that we should do it, if we are going to defer it they ought to have a chance on the second hearing to speak.

MCKAY I don't disagree with that at all, but how much repetition is that going to be?

MARNELL Mr. Parnacott, can you enlighten us with the deferring the vote, and if you concur, and what the crux of the issue is?

BOB PARNACOTT, ASSISTANT COUNTY COUNSELOR The crux of the issue is that when this first brought us, the proposed rezoning in the application we had a little trouble trying to figure out exactly how to fit that into the defined uses that we have under the Zoning Code. The Zoning Code has a specific list of uses that are defined in a very specific manner and if we ever have a use that doesn't quite fit in one of those defined uses, then the Code Enforcement Director has to try and figure out what is the best district for it to be put in?

We went through that analysis and Glen Wiltse made the recommendation that it be put into a "LI" Limited Industrial District and that is the proposal now that has now been noticed up and brought to you today. That was based on an understanding of certain characteristics of the operation that may have changed or that we may have heard a different story then we are hearing now, in any event it may be a different type of operation going on, and Mr. Kaplan suggested that maybe we should step back and maybe look at that again to see if Mr. Wiltse, would change his mind and say that instead of "LI" Limited Industrial that it belongs more in an "OW" Office Warehouse district or "GC" General Commercial zoning district. It does not change a lot of the other factors or the other analysis but it does change the zoning district that you are putting this in.

MARNELL So we would be holding the hearing, if we did so today based on "LI" Limited Industrial, but then it might come back?

PARNACOTT Again, that is just the district. You are still going to hear the same testimony from the neighbors, and the same testimony from Mr. Kaplan and his applicant about the operation. We would bring it back however and be able to tell you at the second hearing whether we have changed our mind or whether Mr. Glen Wiltse has changed his mind on how the district should be characterized.

MARNELL With respect to this particular use, it really wouldn't matter as far as what we would hear today, the difference would be if it was voted on today, it would be voting on "LI" Limited Industrial, as opposed to maybe a lesser zoning classification. The intensity of the land use would be the issue there.

PARNACOTT In my mind I think what the request is whether after Mr. Glen Wiltse makes his re-determination whether that might change the staff recommendation, and if the staff recommendation is changed that might effect the way that you view the matter.

MITCHELL The one zoning that you would not expect your change to be would not be "RR" Rural Residential?

PARNACOTT It would not be left in "RR" Rural Residential. This is something that will require a zone change.

SHERMAN I am not sure I heard you correctly, you said that there is characteristics of the business itself that may change, and that is why there is going to be a change in the zoning as well, there will be a consideration for that?

PARNACOTT I don't get into the particulars because I think we need to hear from Mr. Kaplan, and his applicant on that, but they came and met with us, with kind of a Pre-Planning meeting and explained to us the nature of the operation, that they were proposing to conduct within the building, and based on that understanding, Glen Wiltse made his determination what zoning district it belongs in. Yesterday, I had a meeting with Kaplan, and the Applicant and I heard something different.

SHERMAN So that is still a consideration, as well as this recommendation of where it goes there are some characteristics of the business as well that have changed?

PARNACOTT Well that might change, when Glen has the opportunity to hear this information in discussion with Planning staff.

SHERMAN When will that be determined thought these characteristics whether they are going to change or not?

PARNACOTT Well, I think we can make that determination pretty quick, after you have the hearing today, and Mr. Wiltse is in attendance, and well have the ability to sit down think and look at the Zoning Code and try to come to a determination whether Mr. Wiltse wants to find a different district is appropriate rather than this one.

WARNER My question right now to this Commission is whether we want to move Item 11 up in the Agenda and hear it now?

MOTION: To move Agenda Item 11 up on the Agenda and hear it now.

DUNLAP moved, **HLLMAN** seconded the motion.

MCKAY Do we want to hear it at all?

DUNLAP We are going to hear it today and we will hear it two weeks from now.

WARNER I think we ought to hear it now and then make the decision if we want to defer that is our call.

MOTION carried 12-0.

BACKGROUND: The applicant requests "LI" Limited Industrial zoning on an 27.56-acre unplatted site, currently zoned "RR" Rural Residential, for a proposed indoor recycling processing center for municipal solid waste. The application area is agricultural land located north of 55th Street North and east of North 127th Street East. All property surrounding the application area is zoned RR and used for single-family farmsteads or agriculture. Most surrounding single-family farmsteads are approximately 10 acres in size. A rail corridor abuts the site to the south, the site is approximately ½ mile south of Highway 254 via 127th Street East.

The applicant intends to use the property for an indoor recycling processing center for municipal solid waste. The attached letter from the applicant explains the proposed steam assisted, pressure pulverization process. Because the proposed use would process unsorted municipal waste, the County Zoning Administrator has determined that this use is not a "recycling processing center", as defined by the Unified Zoning Code (UZY), and would require LI or GI zoning.

CASE HISTORY: The property is unplatted.

ADJACENT ZONING AND LAND USE:

NORTH: "RR"	Farmstead, agriculture
SOUTH: "RR"	Rail corridor, farmstead
EAST: "RR"	Farmstead
WEST: "RR"	Farmstead

PUBLIC SERVICES: North 127th Street East is an unpaved section line road with a 30-foot half-width right-of-way (ROW) at this site. The site is located approximately ½ mile south of Highway 254, a divided four-lane highway with a daily traffic count of 10,500. An active rail corridor abuts the site to the south. The 2030 Transportation Plan does not designate improvements for this portion of 127th Street East. Municipal water and sanitary sewer service are not available to the site; on-site water and sanitary sewer service would need to be provided.

CONFORMANCE TO PLANS/POLICIES: The 2030 Wichita Functional Land Use Guide, of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* identifies this area as appropriate for "rural" development, and not within the 2030 Urban Growth Area or Small City Growth Area. The Rural category is intended to accommodate agricultural uses, rural based uses that are no more offensive than normal agricultural uses, and large lot residential subdivisions with provisions for future water and sewer services.

The Industrial Locational Guidelines of the Comprehensive Plan recommend that industrial sites be located in close proximity to support services and be provided good access to major arterials, city truck routes, belt highways, utility trunk lines, rail spurs, airports and as extensions of existing uses. The locational guidelines go on to recommend that industrial uses should be generally located away from existing or planned residential areas, and sited so as not to generate industrial traffic through less intensive land use areas.

The Goals, Objectives, and Strategies of the 1999 Update to the Wichita-Sedgwick County Comprehensive Plan also provide guidance regarding land use. The Land Use-Industrial section contains a strategy (IV.A2) that states, "in those portions of rural unincorporated Sedgwick County outside the projected urban growth area, allow industrial development only when it is agriculturally oriented, dependent upon a natural resource, or, as part of an appropriate expansion of an existing industrial area." The requested zone change is not consistent with the Land Use Guide or the Goals, Objectives, and Strategies of the Comprehensive Plan.

The Unified Zoning Code (UZY) would require a 25-foot compatibility setback between non-residential and residential development, and would require screening between non-residential and residential development. The Sedgwick County Access Management Policy would limit the number of access points and their spacing along 127th Street East. And, the County Sign Code would limit signage for development at this site.

RECOMMENDATION: The proposed zone change is in not in conformance with the Wichita/Sedgwick County Comprehensive Plan Land Use Guide, Industrial Locational Guidelines, or the Goals, Objectives, and Strategies of the Plan. Industrial zoning and uses at this site could be incompatible with the existing single-family residences and agricultural uses surrounding the site. Many land uses permitted in the LI zoning district, along with the proposed indoor use, could produce noise, odors, light pollution, and vibrations that could have a negative affect on surrounding residential properties. The proposed use is an indoor process, but LI zoning does permit outdoor storage and uses. Increased truck traffic at the site would most likely have a negative affect on surrounding residential properties.

The lack of public infrastructure at the site is problematic for industrial development. Most residences in the surrounding area use the unpaved 127th Street to access Highway 254 on a daily basis. The proposed use, as well as any industrial development, would put significant numbers of large trucks on this ½ mile section of 127th to access Highway 254. The lack of water and sewer to the site could be problematic for many industrial uses that would be permitted under LI zoning.

Several surrounding property owners have contacted staff regarding this application, all are opposed to the proposed zone change and use, see the attached letters. Surrounding property owners are concerned with increased truck traffic on a two-lane unpaved road, noise, odors, vibrations, light pollution, possible groundwater contamination, and visual aesthetics in the area.

Based on these factors, plus the information available prior to the public hearing, staff recommends the request be DENIED.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: This proposal is not consistent in terms of zoning, uses, or character with surrounding farmstead and large lot suburban residential development. All surrounding land is zoned "RR" Rural Residential and is used for farmstead / large lot residential uses or agriculture.
2. The suitability of the subject property for the uses to which it has been restricted: The property has previously been used for agriculture; the site is suitable for Rural Residential use as it is currently zoned, similar to the surrounding land uses.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: LI zoning at this location could allow uses that would be incompatible with the surrounding single-family and agricultural uses. Negative effects on these residences from uses permitted in the LI zone could include large truck traffic, noise, odors, vibrations, outdoor storage, and dust. Uses permitted in the LI zone could potentially contribute to groundwater contamination in the immediate area, as water and sewer infrastructure does not exist at this site.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The 2030 Wichita Functional Land Use Guide of the 1999 Update to the Wichita-Sedgwick County Comprehensive Plan identifies this area as appropriate for "rural" development, and not within the 2030 Urban Service Area, which is not in conformance with the requested zoning. The Industrial Locational Guidelines of the Comprehensive Plan recommend access to support services (truck supporting roads, water, sewer, etc.), and separation from residential use, which this site does not have. Likewise, the request is not in conformance with the strategy guidelines of the Comprehensive Plan, which recommend industrial development only when it is agriculturally oriented, dependent upon a site's natural resource, or as part of an appropriate expansion of an existing industrial area.
5. Impact of the proposed development on community facilities: The requested zone change would introduce an industrial land use to an area lacking appropriate community facilities. Fire and crime protection services cannot be adequately provided to an industrial use at this remote location, on an unpaved road with no accessible fire hydrant system. The unpaved 127th Street East will not be adequate to serve large numbers of large trucks.

MCKAY How many tons of stuff will they bring in a day?

MCNEELY The literature that was submitted to us said that their goal would be a through-put of 200 tons per day.

MCKAY You approximated that to be 100 trucks.

MCNEELY That would be my estimate, a minimum of 100 trucks a day.

MCKAY Awfully small trucks.

ALDRICH This being an indoor recycling center is there any concerns with staff regarding the aquifer?

MCNEELY We really don't have the environmental expertise to get into that and that is one of the reasons why an operation such as this would require licensing from the county environmental and KDHE. Obviously, one of the overarching concerns as expressed in the Comprehensive Plan about putting industrial uses in the county and rural areas of the county where infrastructure such as water and sewer does not support it is that any industrial development could have environmental impacts where infrastructure does not support it.

WASTE REDUCTION TECHNOLOGIES VIDEO

KAPLAN When I was contacted by WRT from Indo, California, I was pleased and told Mr. Thornberry that it would be a privilege to represent them in Sedgwick County, because they were bringing to this county a service that was very much in need and was going to be very desirable, and that is obviously the disposal of Municipal Solid Waste (MSW). I am not going to dwell on that because none of you Commissioners need any clarification on the issue. This has been a hot button issue in this community for a longtime and a very major important issue. I have been disappointed quite frankly, in the reception, which we received from the county so far on this issue. I thought that we had a very viable alternative solution to burying 1500 tons of trash everyday in the county. Now I bring in Mr. Thornberry with his company saying we can recycle, keep it out of the ground, out of the air, out of the water, we are a zero polluter, we make no noise, we have no lights, we have minimal traffic 8-12 trucks a day will accommodate. We will be converting all of this waste to reusable, remarketed, resalable material. I am going to put that all aside for my time and there simply can't be any logical criticism to recycling if it can be done.

That brings us to the site and that is the issue before this Commission, where do we put this operation and why are we putting it here? Are there folks opposed, absolutely, I could site it in the middle of the desert and somebody would come in and oppose it. This site I suggest is the ideal site for a number of reasons, one is because we have rail. We may not need that rail immediately but we do have rail that could be an important adjunct with a spur to moving this material out. Number two, this is an existing oil field that still has existing production, we need this water injection field because in addition to the operating wells that are on site and owned by WRT, we will have one or two wells in which we can inject excess Carbon Dioxide that is the only thing that we are going to have, we will have some Carbon Dioxide gas that we are going to inject, it is already taking fluid and we are already taking water down that hole anyway and we will add to that the Carbon Dioxide, which from everything that I read and everything that I am told assists in the recovery of oil and it will go deep into the Arbuckle Formation, that is not polluting anything and that will be simply enhancing the recovery of the oil from the site. We have an arterial four lane limited access on HI-254 a 1/2 mile north of the site which will carry our traffic.

We are willing to work with Mr. Weber, Public Works, the Township if they want to be involved, 127th Street will be in better conditions then it is today because we will maintain it and I have authority to extend that and do what is necessary to maintain that roadway and if we have to keep a motor patrol onsite and an operator on site I have authority to extend that. This company is willing to spend the money.

These are some of the reasons why this site works, this gentlemen and this company did not wander around willy-nilly around the county this site as you can see (shows a big picture). There are minimum residential properties in the notice area. I have problems with the staff report, it refers to industrial uses, it refers to noise, pollution, traffic, and dirt, we will have none of those things, and this will be a totally indoor use. We will build a building and put that hopper indoors and there will be no outdoor activity. There will be no lights, no nighttime activity, no odor, and no dust. and we will take this was material from the transfer station and we will bring it in.

This is very simple we bring in the solid waste and all we do is sort it, aluminum, paper, plastic, etc., and we ship it out. Everybody says that it is not a recycle operation, the recycle processing plant that is permitted in the "OW" Office Warehouse district. Mr. Wiltse says, it has to go "LI" Limited Industrial and he doesn't think it is "OW" Office Warehouse and that is the issue on the table and is the issue for the deferral and they are willing to revisit it and see if an "OW" Office Warehouse or a "GC" General Commercial will work. In my opinion this can go into the "OW" Office Warehouse zoning and I haven't won that argument and I was told to file a PUD Planned Unit Development of amend the "LI" Limited Industrial and I did it.

I did receive one call from one neighbor and I knew there would be opposition. I said let me bring Mr. Thornberry in from California and we can educate the public and at least understand the operation that you are objecting too, and that meeting never took place and was declined. I believe this project is an important project to this city and county and I think at a minimum we are entitled to a full issue review.

ALDRICH As far the recycling process center, this is something that I think we desperately need, in the area but having said that, on this particular site have you looked at any additional sites, are there any other favorable sites besides this one?

KAPLAN My client Mr. Thornberry says that he has looked at other sites and that this is a good site because it is scantily populated, and because of the rail and the water injection field, which seems to be a prerequisite to this it is the only one that he found.

JIM THORNBERRY, WRT INC. We checked and we looked around the area in general and we looked at available industrial properties and the issues that we find that are necessary for our business we found all of those issues at this location, and we did not find them in other places.

ALDRICH So you don't have a secondary site?

THORNBERRY We do not have a backup for this no.

ALDRICH Do you already have permission or do you feel that you can obtain permission from Union Pacific to access their spur?

THORNBERRY We do not have permission and have not had any discussions with them. One of the things that we liked about this was the potential for rail, but we have no plans to use it at this time. We certainly would not use it to bring in materials, we are not looking for external materials we strictly would look at the possibilities for sending out recycled materials in the future.

ALDRICH You are not looking at using the rail to get material in?

THORNBERRY Not inbound. MSW is a bulk and moving it inbound you run out of the reasons why we do this in the first place, which is for a profit.

ALDRICH The material coming into your facility will that be covered or how is that transported exactly?

THORNBERRY The primary receipt of material in this particular option would come either in packer trucks like go in front of your house or more likely in tractor trailers from transfer stations. That is the reason you are look at 20-25 tons per truck you are looking at more like 12-15 trucks packer trucks.

ALDRICH Everything is dumped inside?

THORNBERRY The facility works indoors, the building would be 80 X 275 feet and the system itself sits inside, and the tipping floor sits inside and material is not stored overnight in this facility. We process what we bring in, it comes in, it is dumped on the tipping floor, it goes into the machine, it is processed within an hour and half of its arrival on site it is sterile.

ALDRICH All that occurs inside?

THORNBERRY All that occurs inside. The only external is ingrees/egrees from the building. There is not a lot of outdoor lightening and there will be security lightening like your regular mercury vapors. The material is used strictly indoors, processed indoors, and we store no raw garbage on site.

HILLMAN What will be your hours of operation?

THORNBERRY Depends on how much we are doing, the system itself may run 24 hours a day, as far as the acquisition of materials that comes in on a schedule basis. We may get 2-3 trucks an hour.

HILLMAN I am interested in your waste material, I assume since you are going to generate it every 1 1/2 – 2 hours you are going to have a storage place for that material as it is sterilized, and that is indoors as well?

THORNBERRY Yes.

HILLMAN The transfer of the material to containers, you obviously have a customer for this fuel material or this combustible material then?

THORNBERRY About 65% of what is in any packer truck that you go down the street full is silicates.

HILLMAN Do you have a customer here locally?

THORNBERRY We do not have a local customer for that, it will either be combusted on site to provide power or be shipped out.

HILLMAN So you might have your own self-generation facility?

THORNBERRY One of the things that we do with this is that we do produce electricity with it and if we do that there will be combustion on site. We have patented combustor and that is where the Carbon Dioxide and the injection comes from.

HILLMAN We are going through multiple combustion chambers, 3 +?

THORNBERRY A fluidized bed system and we produce steam with it.

SHERMAN Back to the 24 hours a day, you say that it can operate 24 hours a day and that you will have schedule drop offs and pickups. Is that from 6 a.m. to 6 p.m.?

THORNBERRY It just depends, usually most of your material is going to come in relative to normal collection hours, if it comes in from transfer stations you might get some in the early evening once the transfer station completes its work and sends a couple of trucks, 200 tons a day is 8 tractor trailers.

SHERMAN Do you have a similar facility like this?

THORNBERRY The facility you saw running on the video was a test bed facility that ran in Kentucky on a landfill site. We are not planning on doing this out here.

SHERMAN The one that you are planning to do here is it like this?

THORNBERRY The one that we are doing now we had sit up in Youngstown Iowa and been there for several months and it is in the process of moving to Indo, CA, we have one going into Tulsa, OK. We came out of R & D with this process about 15 months ago.

ALDRICH Are you familiar with BelAire Industrial Park about two miles west of this location?

THORNBERRY Yes.

ALDRICH Have you looked at that location?

THORNBERRY We really wanted to be in the location where the remainder of the oil field was.

ALDRICH Would the Bel Aire site work for you?

THORNBERRY I don't really think so, because we need the down hole injection capacity. We are as we stand right now primarily a net user of water. The main thing that we have from this site is Carbon Dioxide, off of the production of steam for the system or the electrical generation if we go that way.

ALDRICH That would not be available to you at the other site?

THORNBERRY We didn't find it there, no.

DUNLAP Are you the owner or contract purchaser?

THORNBERRY The Company I work for owns the property.

DUNLAP Do you have a contract or agreement with any of the collectors to provide you with this trash?

THORNBERRY No, you have three major collection systems in the City of Wichita and Sedgwick County. You have Waste Connections and Waste Management, both of those companies have their own landfill remote from this area. You have 12-14 collectors that pickup and use those transfer stations, let me be the first to assure you that if one of those collectors started doing business with me prior to me getting this plant open they would have a hard time dealing with Waste Connections or Waste Management.

DUNLAP Mr. Kaplan, do you really think this is the right input for the initial discussion for this project? Should this Item be sent to the Solid Waste Committee or at the County or KDHE or somewhere else, zoning is not going to help if they turn it down, is this really the right input?

KAPLAN We had several meetings, I set up with the Chairman of the County Commission who participated and agreed to set up a meeting with county personnel, we had a number of people there, we showed the video and we have had that preliminary discussion, and I felt the interest was there and the zoning decision and your recommendation to the County Commission.

SHERMAN Back to the R & D, you said this was 15th months old this technology but how long has it been in operation?

THORNBERRY We ran it about one year in Youngstown and we are not open in Tulsa yet.

SHERMAN Why are you moving from Youngstown?

THORNBERRY We moved out of Youngstown, because of the consideration we talked about rail.

DUNLAP The sold waste is MSW, and you moved because you didn't have railroad to handle that, but you are telling us that you are not going to import?

THORNBERRY We moved because we didn't have a local supply. We were bringing it in there, we weren't getting it from Youngstown.

SHERMAN What made staff feel that you were changing some of the operation?

THORNBERRY There were no changes, there was a change in my ability to communicate to the folks that I had talked to what we were doing exactly. We intend to move all of the recyclables off site and if we decided that there was a economic viability for instances producing power then we would come back and without making any huge changes in our operation we would need to add one or two pieces of equipment to actually produce power on site.

SHERMAN So the property that you are asking to be rezoned, are you buying all of that property?

THORNBERRY We bought the property outlined in red.

SHERMAN No one else wants this rezoned and no one else is going to go in and do any type of business?

THORNBERRY It is strictly us, we don't see ourselves doing an industrial park in there, that is one reason that Mr. Kaplan is working to try and change the zoning to a minimum.

MARNELL We received some material from a Petroleum Geologist that was provided to us, have you seen that material?

THORNBERRY We are a net user of water in this process.

MARNELL Where do you get your water?

THORNBERRY I guess we are going to drill a well since somewhere in the report I read that the City of Wichita couldn't supply it.

HILLMAN This building and the entrances will be totally enclosed and any transfers will be taken behind closed doors and there will be full concrete seal across the operation on the floors so that we don't have any ground penetration of anything?

THORNBERRY We work on what is called a containment floor, which means that everything slopes to a collection point within the building. We use steam to run this vessels so we have to produce it as the process finishes it takes about 45 minutes to 1 hour to cook the MSW that has gone in once it is closed. Subsequent to opening the doors we draw the steam off and change the pressure then over the openings we have hoods and those hoods pickup any excess steam once the doors are open on the system. That all goes through a barometric condenser and is recycled for reuse and once we start running the process we have to add a little bit of water a couple of times a day because do have some steam loss. We don't make a lot of water here and we don't inject a lot of water into the formation.

HILLMAN So it would be possible to simply run it into a dry sump and then pump it back in for your next batch?

THORNBERRY That is what we do with it that material has to be cleaned and has to go somewhere. About 10-15% of what comes in our front door will go to a landfill.

ANDERSON Mr. Chair, is our intent to hear from the public today?

SHERRY HAGEMEISTER, 13600 E. 37th N., Wichita, KS 67228 I also have lived in the Florida area where I have seen some of these recycling processing centers. I owned and have sold scientific products to some of these locations and I have also owned a scientific staffing company. Why is this location located in the small City of Greenwich? They are not showing that on the map. There are some impacts, air pollution because they will be combusting on site that has to happen.

We are seeing some water pollution, I am a net user of water myself, I have two ponds, three water wells, I live on 45 acres and have horses and my elder parents drink that water and has the stuff combust in the air it then falls on the ground. My biggest concern is that we have had situations at some points of time where we have had large net users where they have actually dried up my wells at times.

I am also speaking on behalf of some people who live along 45th Street and 37th Street, and 29th Street, because we have million dollar properties that will be devalued. This is not an isolated area, there is also a Butler County impact, this railroad that we keep talking about, and the rail tracks have been picked up. I pay taxes in Butler County and I would like you to speak with Butler County if you are going to pass this location because it will affect Butler County and Harvey County. The dirt road that they have promised

they are going to maintain is 127th Street, the road grader person does the best he can but it is the roughest road in the county. It is a narrow road.

There is a beautiful new church and school built on 21st Street and 127th and that is less than three miles from where this is going to be built.

ALDRICH I think you are incorrect about the rail tracks, the line that runs through there is Missouri Pacific, which is owned by Union Pacific, and I think you are referring to the one that is further south.

HAGEMEISTER I spoke with Jeff Bridges and I know that the track that runs through Butler County has been picked up.

MICHAEL MOORE, 13200 E. 55th N., Wichita, KS 67228 My house and property was just appraised for \$180,000 and they just did the house and this little section of land they didn't do all the other buildings. There is another person who owns large section here and he lives in McPhearson and doesn't live around here. The issues that we have are the roads and the traffic, what keeps him from running three shifts?

The security lighting is going to be a problem we like it dark. The birds and flight patterns might not be affected by why couldn't they just do this where they are proposing Furley. Payne Township is right up the road and all these people will be affected by this large building. Trash, plastics and stuff don't weight that much so there will be lots of trucks and lots of traffic.

Our property value will go straight down the tube, we called and asked for an assessment be done of my property with a "LI" Light Industrial right behind it and nobody would talk to us, they didn't want to go out and try to find out what my property would be worth with this thing right behind our house.

I have horses and like to pull a wagon down a dirt road, but I don't think that I can dodge semi-trucks. There are horses all up and down there.

COURTNEY DOCTOR, 3737 N. 127th Street East The video was fascinating and it looks like an incredible way to get rid of trash. It would benefit all of us. It is location that I think we are all here to debate. Two things were stated today one that it was an ideal site, and the other was that you were not interested in changing anything that happens out there. I have four children they ride their ponies, their bikes, up and down the dirt road. The dirt road is narrow the traffic is minimal out there because the road is not in great shape. The fact that we will have trash trucks driving up and down our streets will greatly affect how much we are able to get out, out lifestyles will change. If the processing facility is a great ideal but I would like to see the location changed, why would we take a piece of property out of an entirely rural residential area and rezone it in a way that will greatly impact those that live out there, this operation does not belong in a residential area. The benefits of that area they stated the railroad, oil wells, and Highway 254, the railroad we don't even know if it is going to be needed and if it is if it is even an option.

NORMA WOLFE, 13504 E. 55th Street North, Wichita, KS 67228 I live directly south of where they want to do this. I say no to rezoning, and I say no to waste technologies. We have lived out here for 18-20 years and we enjoy our peace and quite. We have a trash truck that comes on Monday, and that one truck alone tears our roads up, we get out there with our own tractors and well barrows and we fix our own road. We really haven't heard how many trucks will be coming and going if they don't use the railroad, we really haven't heard a number.

TERRY and KATHY ALLEN, 12920 E 55th Street North, Wichita, KS 67228 {letter belongs to and read by Norma Wolfe}

I have a letter from my neighbors she is out of town and was concerned about this case. We live just south of the proposed plant and we oppose this request. This parcel of land does not meet the local requirements as we read the Golden Rules for rezoning. There is no industrial utilization for the surrounding land with the exception of oil leases. The current zoning of rural residential describes the neighborhood, removing the restrictions will effect nearby property enormously. This is a place where people sleep so the noise involved with trash trucks, beeping and increased traffic would not be good neighbors. The property is currently economically productive as agriculture and it has been utilized this very year. We are currently projected to have water and sewer in this area in 2030. Our roads will not accommodate these amounts of trash trucks. I would hate to have an industrial fire in my backyard because we do not have water hydrants in this area because the water mains are not large enough to allow for the hydrants.

MARY CHESTNUT, 4400 N. 127th Street East, Wichita, KS 67226 We have lived in this home for over 33 years and we are opposed to this plant coming into our neighborhood. There are bridges within a 1 1/2 mile from this site that will not accommodate large truck traffic, they would have to be widened and strengthen and that would limit our egresses/ingrees to our homes. This is a residential area.

BILL CHESTNUT 4400 N. 127th Street East, Wichita, KS 67226 As my wife said we have lived here for 33 years. We moved out here because it is quite and we were 8 miles to the City of Wichita and now it is 1 1/2 mile over to the Jabarra airport. We walk every morning two miles on 127th Street and in the summertime any car or truck will carry behind it a huge ball of dust. I oppose this proposed zone change. These roads are 50-foot roads and not 60 foot as noted on page 2 of the staff report, the 60-foot maybe that last 1/2-mile up to the highway but this is a very narrow road. This will be a huge building with hanger doors wide open from early spring until weather like this because they will be using so much steam inside, the place will have to have the doors open. If you take the 200-ton estimate there will be 25 trucks, do the math. There has to be a more appropriate space in the County for this operation not in the middle of rural residential area.

JERRY and KAROLYN ANDREWS, 5601 N. 143rd Street East, WICHITA KS 67228 I own the adjoining property to the east the quarter section. I appear personally and also as the Treasurer of Payne Township. The roads are not built to with stand this type of traffic, there was some statements about width and most of the culverts in the area are 35-or less so for two trucks to meet they will have to be well on the edge of the road, every week there are ruts in the road from the one trash truck. We do not have the budget in the Township to be able to rebuild the road to any standard that would be satisfactory for this type of process.

I do not believe there is existing water available either underground or through the local water district to be able to accommodate this industry. There have been several problems just by maintaining usage for livestock. My own personal well that is questionable if we had additional usage as in the area whether it can produce enough for the livestock we maintain on the land. If this is rezoned to "LI" Limited Industrial and the business failed for whatever reason we could get a worse operation in its place. The oil wells have been having problems I know of at least three that had to be shut down.

ROBERT HARRINGTON, 6737 AYESBERRY CIRCLE, WICHITA KS 67220 I own property a little south about a mile from this location on 127th Street. I want to speak on the limitation of the infrastructure here.

The representative for the applicant is incumbent to present things in the best possible light. Staff had suggested that for 200 tons we might see 100 trucks a day, with a trip in and out that would be 200 trips in and out, the applicant said no it will be 8-12 trucks based upon the idea that they would be stuffed semi-trucks as opposed to packer trucks. I would suggest it is likely they are going to be packer trucks. It is my understanding that what we have on K-96 is owned by Waste Management and I don't if they will be shipping too much waste to this site, so I think their market is going to be the independent trash haulers. The independent trash haulers are unlikely to off load their trash at some other location, compacting it into a semi-truck in order to haul it to this location. It is incumbent upon the real estate people to look at a site that is capable of expansion, they said their process is modular, with 200 ton per day modular, I am suspecting they have possibility to go to 400-600 tons per day so potentially we are looking at not 8 trucks per day we could be looking at 600 trips a day. We can't really limit the number of trucks that are coming in and out, we can't limit their route, and from infrastructure standpoint it seems to me that this should be either farther out or closer in. I am assuming that after the rezoning they are going to have to plat and you surely are going to have them pave 127th from Highway 254 down to their plant location?

Also I heard today from the applicant and agent that they are not going to store waste here overnight. They will store waste there during the night because they may run the process 24 hours a day, they may bring the trucks in no later than 6-7 p.m. and if it is running 24 hours a day the waste is sitting there as they are getting ready to feed it in over the course of the night.

PATSY COX, 13700 E. 37th Street North, WICHITA KS 67228 This is approximately 2 1/2 mile south and 1/2 mile back east of this site. I am concerned when they say their building is going to be 80 X 280 that is not a very large building to accommodate what they are wanting to do. What I would like to know when they get this rezoned that could do a lot more with the "LI" Limited Industrial then what they say they are going to do. If they started out small to get their zoning then they could grow. I understand there are 40 acres adjoining this property that they purchased and my understanding is they are purchasing that also. I would like to know do they have the option to purchase the property next door? Are they going to stop at the size they say they are going to be? Another thing I am concerned about they say that they use water, steam, cleaning water they recycle it, they are wanting to get down and use those beds of the oil water is this water that they have used go back into the ground and get recycled so therefore it is going to containment our ground. I drink well water that is all I have at my house, and several of my neighbor's are the same, we all have animals, and we know for a fact that in an area not far from us there was some pollution and it killed the birds that it came up in the sprinkler systems. Also, who are their customers? Would some of this stuff come from the hospitals, we don't know for sure. We do know that it is going to hurt our community. I have been a realtor for 38 years and I can tell you that it is going to hurt the property values. We have new subdivisions that are going in within a three-mile area of that property, do you think people are going to buy or build new subdivisions, growing Wichita if this is in the neighborhood?

ROBERT C. LEWELLYN, 12700 E. 56TH STREET NORTH, WICHITA KS 67226-8739 I am the Petroleum Geologist that sent in the letter about the wells and so forth. I would like to point out to you just north of that triangle there is a small farm property with a white framed house right on 127th, three months ago saltwater was flowing out on the ground on that man's property and right now he has a lawsuit against the oil company for damages to his property from that saltwater. To me that verifies the possible of leaks up to the surface, into the surface water and this kind of thing.

Mr. Thornberry, and Mr. Kaplan indicated that they needed to be closer to the Greenwich field because of the Arbuckle. You can drill anywhere in the county. Also they indicated they would put some water in this disposal well, it only takes about 3,000 gallons of water to plug up a well like a mentioned in my written materials. Wash down that floor about 10-15 times they will have that 3,000 gallons down that well and my concern is where are they going to go with the waste that they create from treating the waste? They can't put it down the hole once it plugs up so now we are going to have more hauling to go on. I think that this is not a good ecological thing to have in our neighborhood or county.

Those wells are about 50 years old and they are making about five barrels of oil a day and about 200 barrels of water a day and that carbon dioxide is going to be far enough away that it will never get through the Arbuckle water to give them any help.

ALDRICH In your opinion what affect would this have on the Arbuckle formation?

LEWELLYN Probably none, the problem will be on the casing. This water that is flowing on this property that I mentioned at the beginning, I am sure is a result of a salt water disposal well that mixed waters got the corrosion that I was talking about in my written report and the water came out the side of hole into the shallow sands and even all the way to the surface.

ALDRICH What is your background?

LEWELLYN I graduated from the University of Oklahoma with a Bachelor of Science degree in geology. I have been a consulting geologist for forty-nine years. I am not retired and am still doing research for oil operators in the Greenwich field and many other areas of Kansas and Oklahoma.

HILLMAN There are wells on the proposed site?

LEWELLYN A disposal well I believe.

HILLMAN The well on the site, is it a cased well?

LEWELLYN Yes.

HILLMAN How far down would it have to be in order to avoid the water table?

LEWELLYN About 150 feet.

HILLMAN You believe that to be the case?

LEWELLYN I think that is the case, however those wells have been there so long a lot of that casing is just about corroded out.

HILLMAN When it corrodes it can release into the water table?

LEWELLYN The Greenwich field was discovered in 1929, so not all those wells are that old but many of them are 50 years old at least.

ROGER WILLIAMSON, 4959 N. 127th Street East, Wichita, KS 67226 I am the fourth generation to live on this property. One of the primary concerns that I would have is the traffic, and the road is narrow. At 127th Street to the East of that begins the headwaters to the Santa Fe lake so if there is any runoff from this plant it is in the aquifer and the upper level drainage that runs into the Santa Fe lake and those folks should be a part of this discussion as the water that comes off of us goes to them.

WALTER BERRY, 3550 N. 127th Street East, Wichita, KS 67226 There is a bridge on 143rd that is south of 37th and north of 29th that is currently closed because it was hit by a truck. So you will have examples like that happening. I would request that you not defer this issue and I think you have heard from everyone here that it does not matter what you zone this it will be use of this property that is a concern to us. If you are going to allow a processing center in rural residential I would like to know about that as a separate issue.

LINDA SHELLMAN Every time we would come out on 127th we would be looking at this building. We are opposed to this proposed rezoning, we have lived in the area for 30 years. The pictures that were shown by the attorney for the applicant are the worst in the area, most of us have been out there for so long and we keep our hosing area up and it is home. We really don't want this mess out there. I am the biggest fan for recycling but I don't think this is the right area for it. We don't have any commercial buildings in the area, so I don't know why we would want to bring all this stuff clear out here rather than in some industrial area in town or on farther out.

ANDY BLYTHE, 3900 N. 127th Street East, Wichita, KS 67226 On that conveyor built that you saw the trash going up into their cooker, I didn't see any fence or screening over that and if you ever drive out on K-96 you will see the trash all over the place on that K-96 facility. You have to have the doors open so the trucks can come in and wind blows and lands up in my wind. There are ways to take care of that with negative pressure buildings and what not. I am concerned about the odors. There are no accel/decel lanes on Highway 254 and you would have to put a light on there, young kids and trash trucks don't get a long. There will be trucks coming out and crossing two lanes of traffic to get back on the highway and I think it is a big safety issue.

If they were to do this, I think there out to be regular inspections and with concerns on the environmental impact.

MR. THORNBERRY I understand the questions and concerns, you folks have been very nice and very pleasant. Some of the questions about what we would do if we don't succeed will be covered by the protective overlay. Nobody could go in there with that zoning and do something that we aren't doing on the site with the protective overlay that we will propose. Questions relative to truck traffic anywhere south of the railroad track on 127th Street are absolutely without concern, we will specify that anything coming to the site has to come in off of Highway 254. Relative to the conditions of the road in particular, it is not adequate for our needs from the railroad track to Highway 254, we knew when we started talking about this that we would need to upgrade that road. Questions about pollution, odor, noise and those certain things, I am not going to tell you that this is not an industrial operation that just goes with the territory. We feel like we picked a location that is proper for our needs and we understand that it is going to have detrimental impact on you folks. Regardless of what the decision is here, if you folks win, we understand that and if they decide to do the zoning we will be as good as neighbor's as we can be. We will always invite your comments. We will be inspected by the State and the local governments.

DUNLAP I would like to ask our county expert from the audience to answer a few questions. My question early about whether this is the right initial place to start, can you explain to me what steps are going to be taken should we approve the zoning before it could start processing?

SUSAN ERLLENWEIN, ENVR RESOURCES DIRECTOR, 2625 S. TYLER, WICHITA KS 67215 They would have to meet with the KDHE to determine how their process fits into the different permits that the State issues. I have talked to State representatives in Topeka and they consider it a solid waste processing facility and not a recycling facility since they would be receiving mixed waste coming in and not presorted, and not really a transfer station, although there are components of it reflect transfer station since they are transferring trash out of there. They would have to work with the State on filling out the permit application. They would have to work with the County with what we would need, including the Solid Waste Committee does not then they would. The Committee wants the permit filled out for them to review site plans, etc., and determine if it fits our Solid Waste Plan or not, make their recommendations to the County Commissioners who would then hear it and determine if it meets our plan. If it would have to change the plan to allow it or not change the plan.

DUNLAP What about the accel/decel lanes on Highway 254? Do you know what the 254 Corridor Study calls for on 127th Street corner?

ERLENWEIN No, I do not.

JOHNSON Do you know how many loads of waste is hauled out of Sedgwick County a day?

ERLENWEIN We have an average of about 1250 tons a day, Mondays are the greatest days with over 2000 tons.

JOHNSON I am thinking about number of vehicles.

ERLENWEIN We are probably looking at 70 semi-trucks total a day.

MITCHELL At what point will it be appropriate to make a motion that we make a decision on this issue today and not postpone a decision.

WARNER I think it is appropriate as soon as whatever discussion we have on this item is concluded.

SCHLEGEL You have a lot of options here, and one is to honor the request by the applicant to defer any action on this, you can approve it, you can deny it, you can approve it with conditions.

MITCHELL Having reviewed the staff report, after hearing the decision that it does not comply as a recycling operation, after hearing from the residence in the area and their opposition, and having review the nine Golden Principals, I don't see this application complying any or very few.

MOTION: Take the staff recommendation and deny the application.

MITCHELL moved, **ALDRICH** seconded the motion.

DUNLAP I will support the motion, I like the ideal of the technology and hope Susan Erlenwein can work this in our process somewhere.

MARNELL I think I heard the applicant say they would be willing to put a protective overlay over this thing so it is not a general zoning case for "LI" Limited Industrial. The County has a dog in this fight and that seems like it may not serve the best interest to the citizens at large but as the County perceives it as the County government, because this would be a competitor for trash. So my question to the motion maker is would the protective overlay make a difference in your motion?

MITCHELL No.

MCKAY We know the people living out there don't want the station, and I think Mr. Kaplan's theory of deferral was that maybe staff might change their mind because of whatever, I would like to hear from staff on that comment.

SCHLEGEL We haven't received any of the information, he indicated that he has shared some new information or additional information with Mr. Parnacott, but we have not received any of that, so we don't really know whether or not that would impact the staff recommendation. It would be really hard to answer that question right now without knowing what that information is.

HILLMAN I think this is great technology and should we turn this down at this location, this is something we want to see development somewhere else in the county in some industrial area.

ROBERT PARNACOTT, ASSISTANT COUNTY COUNSELOR Everything that I heard yesterday, you have heard today through the presentation.

SCHLEGEL If you want us to express an opinion on that maybe I could confer with Jess and Dale for a minute or two. I don't know how critical it is to your decision.

MCKAY To me that is the whole crux of the deferral, is the changing of the zoning might change the recommendation of staff.

WARNER I don't see that makes any difference at all.

HILLMAN Call for the question.

MOTION carries 11-0.

12. **Case No.: CON2005-49** – James and Susette Schwartz Request Conditional Use for an accessory apartment on property zoned "SF-5" Single-family Residential on property described as;

Lot 3 and the East 10 feet of vacated street adjacent on the East, Block 4, Sunset Heights 5th Addition, Wichita, Sedgwick County, Kansas. Generally located East of Westridge and 150 feet south of 21st Street North.

BACKGROUND: The application area is located south of 21st Street North and east of Westridge Drive (2124 N. Westridge), and contains .26 acres. The site is zoned SF-5 Single-family Residential, and developed with a 1,804 square-foot single-family residence. The applicants are seeking a Conditional Use to permit an approximately 988 square-foot accessory apartment that would provide housing for a family member dealing with a medial hardship requiring assistance with daily living. The primary structure's exterior is brick and wood siding.

The apartment would be located on the rear third of the 160 by 70-foot lot. The eastern end of the lot contains a platted eight-foot utility easement, and the south side contains the north half of a 12-foot utility easement. Sewer lines are present in both easements. The proposed apartment appears to meet accessory structure setback standards.

Surrounding lots are zoned SF-5 Single-family Residential or GO General Office, and developed with residences and an office.

The *Wichita-Sedgwick County Unified Zoning Code* permits an accessory apartment in the SF-5 district subject to approval of a Conditional Use, and the following standards: one accessory apartment is allowed on the same lot as a single-family dwelling unit; the appearance of the accessory apartment shall be compatible with the main dwelling and the character of the neighborhood; the ownership of the accessory apartment must remain with the ownership of the main dwelling and the water and sewer service provided to the accessory structure shall not be provided as a separate service from the main dwelling.

CASE HISTORY: The Sunset Heights Fifth Addition was recorded in 1956.

ADJACENT ZONING AND LAND USE:

NORTH: SF-5 Single-family Residential; residential
SOUTH: SF-5 Single-family Residential; residential
EAST: SF-5 Single-family Residential & GO General Office; residential and office
WEST: SF-5 Single-family Residential; residential

PUBLIC SERVICES: Typical publicly supplied serves are available to the applicant's lot.

CONFORMANCE TO PLANS/POLICIES: The "2030 Wichita Functional Land Use Guide" designates this location as appropriate for "urban residential: uses. This category includes areas that reflect the full diversity of residential development densities and types typically found in a large urban municipality. This use designation includes a wide range of housing types ranging from single-family through multi-family residential uses.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to the following conditions being completed within one year:

1. The accessory apartment shall be subject to all requirements of Section III-D.6.a of the Unified Zoning Code and be constructed in substantial compliancy with the approved site plan.
2. The applicant shall obtain all applicable permits prior to occupancy.
3. If the Zoning Administrator finds that there is a violation of any of the conditions of approval, the Zoning Administrator, with the concurrence of the Planning Director, may enforce remedies contained in Article VII and may declare the Conditional Use null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The area is predominately zoned SF-5 Single-family Residential with a couple of GO General Office lots. All of the lots are developed with single-family residences and the assisted living complex. The character of this area is predominantly single-family residential.
2. The suitability of the subject property for the uses to which it has been restricted: Accessory apartments may be allowed as a Conditional Use in SF-5 zoning, subject to conditions. This application appears to meet specified development standards.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Any detrimental effects should be minimized by the conditions of approval.
4. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: Denial could force the applicant to move to another location, which would not be in the applicant's best interest. There should not be any negative impact on the community's health, safety or welfare given the fact that the application complies with established standards, and the applicant's lot is a larger than normal residential lot.
5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The "2030 Wichita Functional Land Use Guide" designates this location as appropriate for "urban residential: uses. This category includes areas that reflect the full diversity of residential development densities and types typically found in a large urban municipality. This use designation includes a wide range of housing types ranging from single-family through multi-family residential uses.
6. Impact of the proposed development on community facilities: There should be little, if any, impact on community facilities.

MILLER The District Advisory Board (DAB) when they heard this case they wanted to attach three conditions that are listed on the blue sheet handed out today.

- (1) Attach a Restrictive Covenant that would require on site parking for the resident of the accessory apartment.
- (2) Ensure that drainage from the site onto abutting properties does not increase as a result of the construction of the accessory apartment and its final grade. Provide a drainage plan and certify that site's final grade matches the approved drainage.
- (3) Provide more dimension control on the site plan; show dimension between side yards, backyard, front yard and existing house and proposed accessory apartment. Show dimension of side yard utility easement dedicated by separate instrument.

MITCHELL Do you have any idea how they are going to get back there to build this thing?

MILLER From looking at aerial the green area would be the only way that they could come in.

MITCHELL They have to come in off the church property? The staff comments indicated that the applicant is planning to contact the church about using some of their property for this back structure, what if the church decides to say no?

MILLER The request is based on a fact that there is a family member who has a medical condition and can't take care of themselves and that they have no short-term memory. The person is young and so what they are trying to do is set this up so they can be taken care of by family members on the home site. The site plan does show that an attach parking space on the north side of the proposed accessory structure, but if they can't get through there than they won't have any parking as indicating on the site plan. They do have a double car driveway out on the front that would provide the usual parking for vehicles but they may not be able to use the parking adjacent to the accessory structure shown on the site plan.

ALDRICH What are the side yard setbacks? The distances because it is not shown here on the site plan?

MILLER They comply with all the setbacks.

MCKAY It says 8 foot.

MITCHELL If you are able to get cooperation from the church to get back to build this how would you get to putting the materials at this rear location?

SUSETTE SCHWARTZ, 2124 WESTRIDGE, WICHITA KS 67203 I wasn't considering talking to them about the access for building this I was talking about the access of a possible future carport which was not a condition to having the accessory apartment in the back. I haven't talked to the church because I thought it would presumption of me to talk to them before approval.

MITCHELL Since you are familiar with the property, is there room enough to drive a truck loaded with building materials down either the east or the north side of the lots, or the south side of the lot to get to the rear part of the property?

SCHWARTZ No.

MCKAY Isn't there a house to the south of you?

SCHWARTZ Yes.

MCKAY According to your plan your house is 8-foot from the property line and there is a 6-foot setback and at least 6 foot on the other side so if you got permission from the person to the south you could do both.

SCHWARTZ We would have to tear down the privacy fence and remove trees.

WARNER Is it our responsibility to figure out how she is going to get stuff in there?

MITCHELL No.

MCKAY What is the green lot?

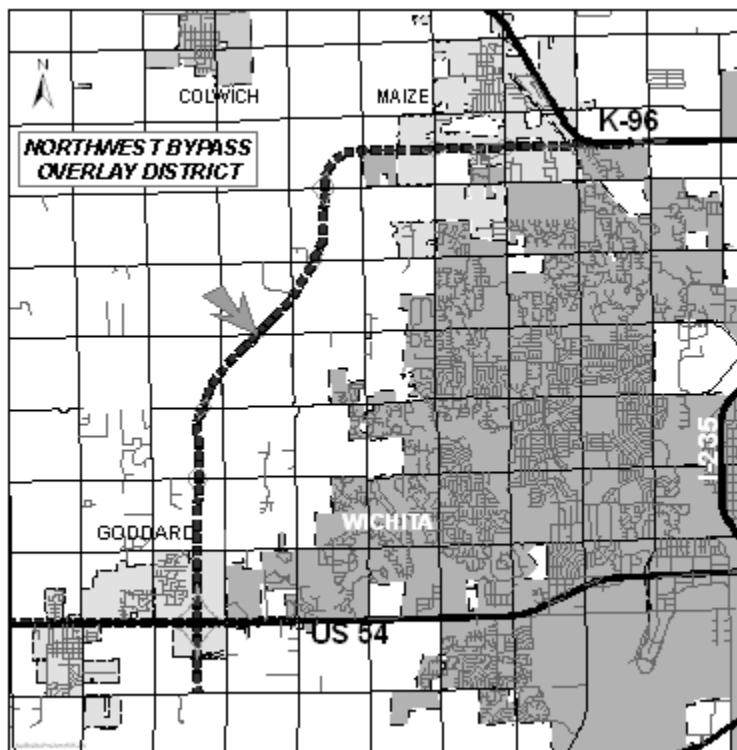
SCHWARTZ That is the church's property, there is a gate in our privacy fence the width of a car that is right there at that north end. We have never used it. There is a circular drive that would go right up into our property. I thought you know it would be handy for my son if he could get access but I understood from the staff that it wouldn't be necessary to have that access because he would have a parking spot in our driveway.

MOTION: To approve subject to staff recommendations and not including the DAB recommendation.

JOHNSON moved, **WARNER** seconded, and the motion carried 9-1.
(**HILLMAN** opposed)

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13. **Case No.: DR2005-35** – Request Amendment to the Unified Zoning Code to create the CP-O, Corridor Plan Overlay District within the City of Wichita and Sedgwick County. The CP-O District would establish development review provisions meant to assure a comprehensive review of the impact of proposed land uses on the anticipated character of neighborhoods immediately surrounding proposed transportation corridor improvement projects

General Location The general location of the proposed CP-O connects K-96 to US-54 west of the City of Wichita. The proposed CP-O comprises a 150-foot buffer either side of the proposed Northwest Bypass.



1. The proposed Northwest Bypass has existed on adopted planning maps and documents for over five years, staff is working with KDOT and other departments to make progress on this transportation project. KDOT anticipates limited funding for this project; therefore, the proposed Overlay District is intended to assist in the land assembly process. The Planning Department, along with the City and County Attorneys Offices, has drafted the attached Overlay District. The proposed Overlay District would be an amendment to the text of the Unified Zoning Code, as well as an amendment to the Official Zoning Map, placing the proposed Overlay District on the designated Northwest Bypass Corridor. The Overlay District is proposed to extend 150 feet to each side of the proposed Northwest Bypass centerline. In accordance with the Unified Zoning Code, a public hearing has been scheduled for the December 8, 2005 MAPC hearing, and advertised in the official paper.

2. The attached Corridor Plan Overlay District text is self-explanatory. It is intended to ensure that public services are effectively planned and efficiently installed prior to more intensive development. The Overlay intends to ensure that public improvements and investments are considered prior to land use and development decisions. The Overlay would require the existing Conditional Use process for certain building and expansion projects, with final decisions resting at the governing bodies. An administrative approval process is available for smaller scale projects. The proposed Overlay District would apply to the City of Wichita and Sedgwick County only, small cities will not be a part of the Overlay District.

3. **RECOMMENDATION:**

Planning Staff recommends that the MAPC approve the proposed Corridor Plan Overlay District text amendment to the Unified Zoning Code, and approve an amendment to the Official Zoning Map, placing the proposed Corridor Plan Overlay District on the designated Northwest Bypass Corridor. The MAPC recommendation will then be forwarded to both the City and County governing bodies.

9. CP-O, Corridor Plan Overlay District

- a. Purpose. The CP-O Corridor Plan Overlay district recognizes the impact transportation corridor improvement projects can have on private and public land use expectations. New transportation improvements can lead to requests for more intense zoning and development applications before public services required to support the more intense development can be effectively planned and efficiently installed. The development review provisions applicable within the CP-O district are intended to assure a comprehensive review of the impact of proposed land uses on the anticipated character of neighborhoods immediately surrounding proposed transportation corridor improvement projects. This district is established to ensure that land use or development decisions that could result in the need for further public improvements or public investments consider the viability and prudence of such investments in light of changes expected to occur as a result of anticipated corridor improvements. Properties located within the CP-O district shall comply with the regulations contained within the overlay district and the standards contained in the underlying or base-zoning district. In case of a conflict between the regulations in this section and those of the underlying zoning district, the regulations in this section shall prevail.
- b. Use regulations. No property within the CP-O district shall be devoted to any use, including any agricultural use, requiring a building permit, other than those uses existing at the time the CP-O Corridor Plan Overlay district was established. Any new use, whether allowed by right by the underlying zoning, by Conditional Use, or as an accessory

use in the underlying zoning district, shall be allowed only after the proposed new use has been approved as provided for in this section.

- c. Review procedures. Requests requiring CP-O Overlay district zoning approval shall follow the same review procedures as required by Conditional Use applications contained in Article V-D of the Wichita-Sedgwick County Unified Zoning Code, except that in all cases final approval shall rest with the appropriate Governing Body. The action of the Metropolitan Area Planning Commission shall be advisory to the Governing Body.
- d. Review criteria. In addition to the review criteria contained in Article V-C.8, the following criteria shall be used to evaluate CP-O requests:
 - (1) The duration of the proposed use.
 - (2) The anticipated start and completion dates of the planned transportation corridor improvement project.
 - (3) The compatibility of the proposed use with the expected character of the neighborhood following the completion of the planned transportation corridor improvement project.
 - (4) The extent to which the proposed use will detrimentally affect the public benefits otherwise arising from the transportation corridor improvement project.
 - (5) The extent to which the proposed use will require public improvements or investments that may be altered or eliminated by the planned transportation corridor improvement project.
- e. Property development standards. Each site in the CP-O district shall be subject to the property development standards of the underlying zoning except the following:
 - (1) Setbacks. In areas where the right-of-way of a proposed transportation corridor has been identified on an adopted map, whether or not that right-of-way has been acquired, minimum setbacks shall be measured from the proposed right-of-way line. In no event shall any building be erected, enlarged, moved in or reconstructed so as to be closer to the centerline of a proposed transportation corridor than 150 feet.
- f. Administrative approvals. The Planning Director shall have the authority to waive application of the requirements of this section for building permits that do not increase the floor area by 1,000 square feet, or ten percent, whichever is less; or the appraised value of the property by more than \$10,000, or ten percent, whichever is less.

The Planning Director may also terminate any conditions imposed under this section if the property involved is no longer contained within the designated district.
- g. CP-O, Corridor Plan Overlay District designation. The Governing Body may adopt, and amend from time to time, maps designating a Corridor Plan Overlay District. Any such adoption or amendment shall be shown on the Official Zoning District Map.

MCNEELY You should have a blue sheet in front of you with today's date on it that would give summary of the Advanced Plans Committee meeting this morning and a few items that were discussed this morning. Specifically that the zoning administrator, not the planning director, would have administrative authority, and that the word "Preservation" be included in the title.

MOTION: To approve the proposed Corridor Plan Overlay District text amendment to the Unified Zoning Code, and approve an amendment to the Official Zoning Map, placing the proposed Corridor Plan Overlay District on the designated Northwest Bypass Corridor.

MCKAY moved, **MARNELL** seconded, and the motion carried 10-0.

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14. **Case No.: DR2005-38** – Request The City of Valley Center seeks unilateral annexation of various tracts of land located adjacent to the City of Valley Center

On November 1, 2005, the City of Valley Center passed Resolution No. 492-05 authorizing a public hearing on January 3, 2006 for the purposes of considering the unilateral annexation of 17 tracts of lands located adjacent to the City of Valley Center. All but one of the proposed annexation areas fall within the Valley Center 2030 Urban Growth Area as designated within the Wichita-Sedgwick County Comprehensive Plan *Preparing for Change*, adopted and updated by the Metropolitan Area Planning Commission and the Board of County Commission in May 2005. Tract #11, located west of Broadway and south of 77 Street North, falls within the designated 2030 Urban Growth Area for Park City.

After review by staff, it has been concluded that with the exception of Tract #11, the proposed annexation areas adjacent to the Valley Center city limits are compliant with the intent of the Wichita-Sedgwick County Comprehensive Plan. Staff recommends that the Metropolitan Area Planning Commission find the unilateral annexation proposed by Resolution No. 492-05 of the City of Valley Center to be consistent with the adopted Wichita-Sedgwick County Comprehensive Plan, excepting Tract #11 which falls within the Park City 2030 Urban Growth Area.

MCKAY Declares Conflict of interest.

MITCHELL Mr. Barber has the Planning Commission been provided a services plan for this annexation?

BARBER One came in earlier this week in response to a request from Bob Parnacott.

PARNACOTT The service plan we received has to do with a different annexation that is going to be heard by the County Commissioner is February.

MOTION: MAPC finds the unilateral annexation proposed by Resolution No. 492-05 of the City of Valley Center to be consistent with adopted Wichita-Sedgwick County Comprehensive Plan, excepting Tract #11 which falls within the Park City 2030 Urban Growth Area.

MARNELL moved, **HILLMAN** seconded, and the motion carried 8-1-1.
(**MITCHELL**, opposed. **MCKAY**, abstains)

15. **Case No.: CUP2005-63 DP291 and ZON2005-49** – William L. Cozine Request The creation of Cedar Creek Marketplace Commercial Community Unit Plan; and Zone change from "SF-5" Single-family Residential to "LC" Limited Commercial on property described as;

That part of Lot 1 and Reserve "A" in Kensington Gardens, Wichita, Sedgwick County, Kansas, described as follows: Beginning at the northwest corner of said Lot 1; thence S 89 degrees 16'46"W, 560 feet to a corner of said Reserve "A"; thence N 00 degrees 43'06"W along the west line of said Reserve, 574.73 feet; thence N 58 degrees 32'58"E, 114.17 feet; thence S 87 degrees 05'38"E, 411.71 feet; thence S 88 degrees 11'31"E, 255.05 feet; thence S 79 degrees 20'00"E, 273.06 feet; thence S 66 degrees 47'00"E, 182.74 feet; thence N 23 degrees 13'00"E, 30 feet; thence S 66 degrees 47'00"E, 186.05 feet; thence S 54 degrees 47'00"E, 372.09 feet; thence along a curve to the right having a radius of 1779.86 feet and a chord bearing S 43 degrees 50'42"E, 306.43 feet, through a central angle of 19 degrees 45'11", a distance of 306.81 feet; thence S 54 degrees 18'07"W, 320.06 feet; thence S 48 degrees 58'38"W, 407.19 feet; thence S 00 degrees 43'06"E, 34.39 feet; thence S 48 degrees 58'38"W, 124.57 feet; thence S 89 degrees 16'46"W, 172.10 feet to a point on the east line of said Lot 1; thence S 89 degrees 16'46"W, 340.00 feet to a point on the west line of said Lot; thence N 00 degrees 43'06"W, 176.39 feet; thence S 89 degrees 16'46"W, 152.24 feet; thence N 00 degrees 43'06"W, 366 feet to the point of beginning. Generally located East of Greenwich Road and south of K-96.

This application will not be considered at the **December 8, 2005**, Wichita-Sedgwick County Metropolitan Area Planning Commission (MAPC) meeting. This request has been scheduled for consideration before the MAPC on **Thursday, December 22, 2005**.

16. Floodplain Management Task Force Final Report, presentation by Christy Askew, Associate Planner, Advance Plans Division.

Christy Askew recognized Task Force members in the audience including, Mr. Mitchell, Mr. Schlegel and Mr. Parnacott, for their hard work on the Task Force throughout this past year and for the work that is before them. Then Askew made a brief presentation regarding the Floodplain Management Task Force Final Report. The Task Force was formed in January 2005 with a charge to evaluate current policy and practice of regulating development within floodplains and to make recommendations of any needed change in policy and practice to the Sedgwick County Board of Commissioners and Wichita City Council. The Floodplain Management Task Force developed seven initiatives with associated charge statements and action items, and assigned representatives to take the lead responsibility in developing an implementation plan for each action item. Christy Askew briefly described each of the seven initiatives, which include activities to address public awareness, flood-prone property, uniform standards, a governmental framework, basin studies, the Community Rating System Program, and flood conveyance channels.

MOTION: Accept the Floodplain Management Task Force Final Report and recommend that the Wichita City Council and the Sedgwick County Board of County Commissioners direct the City Manager and the County Manager to work together to move the Report's recommendations forward.

DUNLAP moved, **ALDRICH** seconded, and the motion carried 9-0.

The Metropolitan Area Planning Department informally adjourned at 5:38 p.m.

State of Kansas)
Sedgwick County) ss

I, John L. Schlegel, Secretary of the Wichita-Sedgwick County Metropolitan Area Planning Commission, do hereby certify that the foregoing copy of the minutes of the meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission, held on _____, is a true and correct copy of the minutes officially approved by such Commission.

Given under my hand and official seal this _____ day of _____, 2005.

John L. Schlegel, Secretary
Wichita-Sedgwick County Metropolitan
Area Planning Commission

(SEAL)